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Academic Editors
Guri Rosén (Oslo Metropolitan University)
Sophie Meunier (Princeton University)

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Editorial

Economic Security and the Politics of Trade and Investment Policy in Europe

Guri Rosén^{1,*} and Sophie Meunier²

¹ Oslo Business School, Oslo Metropolitan University, Norway

² Princeton School of Public and International Affairs, Princeton University, USA

* Corresponding author (guri.rosen@oslomet.no)

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Abstract

Facing recent global disruptions brought about by the COVID-19 pandemic, the war in Ukraine, climate change, and the race for raw materials and technology needed for the green transition, economic interdependence—not least unilateral dependence—has increasingly come to be seen as a security threat. In response, the EU has put resilience and strategic autonomy at the centre of its trade and investment agenda. The EU was long resistant to this geoeconomic turn, that is, the use of economic tools for geopolitical purposes in normal times. Since 2017, however, the EU has placed greater emphasis on identifying and mitigating the security vulnerabilities that accrue from open markets. This geoeconomic turn has culminated in the June 2023 release of the European Commission’s Economic Security Strategy, which aims to maximise the benefits of economic openness while minimising the risks from economic interdependence. The aim of this thematic issue is to analyse the foundations of this new European focus on economic security and, more specifically, on the increased use of geoeconomic instruments. Coming at this objective from a variety of disciplinary traditions, methodologies, and substantive focus, our contributors tackle, among others, the following questions: Why has the EU abandoned its reluctance to use geoeconomics and finally made the switch towards economic security? How does the EU’s approach compare with other major global players? And, what are the long-term implications of the EU’s economic security strategy for European integration, its relationship with partners and allies, and the global economic order?

Keywords

anti-globalization backlash; economic security; European Union; geoeconomics; investment; trade

Issue

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1. Introduction

Interdependence has long been regarded as a mainstay of the globalised economy, where free trade and peace go hand in hand. Anchored by a set of multilateral rules governing economic exchange, the so-called liberal international economic order was designed in the post-World War II era to increase economic prosperity and tie economic partners in such binding ways that war between them would become too costly. However, recent years have shown that these close ties between states, companies, organisations, and individuals can

also be exploited for economic or geopolitical leverage—what is now commonly referred to as “weaponised interdependence” (Farrell & Newman, 2019). Facing recent global disruptions brought about by the COVID-19 pandemic, the war in Ukraine, climate change, and the race for raw materials and technology needed for the green transition, economic interdependence—not least unilateral dependence—has increasingly come to be seen as a security threat.

In response, the EU has put European resilience and strategic autonomy at the centre of its trade and investment agenda. In the face of a global context where power

politics is resurging with great speed and seems to trump liberal economics, the EU has changed course (Bauerle Danzman & Meunier, in press; Damro et al., in press; Matthijs & Meunier, 2023). The EU was long resistant to this geoeconomic turn, that is, the use of economic tools for geopolitical purposes in normal times. Since 2017, however, the EU has placed greater emphasis on identifying and mitigating the security vulnerabilities that accrue from open markets (Meunier & Nicolaïdis, 2019). In recent years, the EU has created in short order a panoply of innovative policy tools that blend trade and investment with essential security concerns.

This geoeconomic turn has culminated in the June 2023 release of the European Commission's Economic Security Strategy (European Commission, 2023). The stated aim of the Economic Security Strategy is to maximise the benefits of economic openness while minimising the risks from economic interdependence. The three key instruments proposed to achieve this ambition are to promote EU competitiveness, protect the EU's economic security through various new and existing tools, and partner with like-minded countries. What makes this strategy stand apart is its seeming change of tack for an international institution founded on the principles of the liberal world order. Despite its long reluctance to follow in the geoeconomic footsteps of its partners and competitors, the EU now appears to be launching its new strategy with a vengeance.

The aim of this thematic issue on "Economic Security and the Politics of Trade and Investment Policy in Europe" is to analyse the foundations of this new European focus on economic security and, more specifically, on the increased use of geoeconomic instruments. Coming at this aim from a variety of disciplinary traditions, methodologies, and substantive focus, our contributors tackle, among others, the following questions: Why has the EU abandoned its reluctance to use geoeconomics and finally made the switch towards economic security? How does the EU's approach compare with other major global players? And, what are the long-term implications of the EU's economic security strategy for European integration, its relationship with partners and allies, and the global economic order?

2. The EU's Pivot Towards Economic Security

A core objective of the postwar liberal international economic order was to separate commercial policy and security issues as much as possible (Garcia-Duran et al., 2023). This was relatively easy to do because of a clear distinction between what belonged to the economic vs. the security realms, albeit with some grey area in between for dual-use goods and technologies. Technological development, however, has blurred this neat distinction. On one hand, the "Internet of Things" and the ubiquity of personal data have transformed any economic good and interaction into a potential security threat, from your connected home assistant device

to your DNA ancestry kit. Devices and technology that service our interconnected world, not to mention the parts and items that are key to making them work, represent an increasing security hazard. On the other hand, issues that used to be considered scientific or economic in nature, such as climate change or a pandemic, are now understood to be part of national security, as was demonstrated clearly by the dramatic disruptions during the Covid-19 years. Economic interaction and security are so deeply entangled now that many states, and scholars, blend them under the concept of "economic security." This section explains the factors that have led to the EU's pivot towards economic security, introduces some of the tools in the EU's new geoeconomic arsenal, and analyses whether this is a true paradigm shift or the continuation of the same objectives through other means.

2.1. Explaining the EU's Pivot Towards Economic Security

The EU took longer than its partners and competitors to embrace economic security and develop its own geoeconomic tools. As Bauerle Danzman and Meunier (in press) explain, "the EU was less equipped institutionally and politically than other advanced economies to adjust to the new world of deglobalization, fragmentation, and economic statecraft" because of "the centrality of the single market to the process of European construction, the institutional division of competences that empowers the Union in the areas of trade and competition, and the traditionally pro-free market ideological bent of DG Trade."

In addition to technological change and the Covid-19 pandemic, two external factors prompted the EU's realization that it needed to expedite a strategy on economic security: First was China's simultaneous strategy of economic self-reliance, including through legal and illegal acquisition of Western technology, and rising authoritarianism and geopolitical ambitions. Second, the rapid move away from multilateralism and rules-based trade during the Trump administration made Europeans realize that taking the US as a reliable partner in defending the liberal international economic order was no longer granted. The embrace of industrial policy and economic security under the Biden administration only reinforced this American transformation. In both cases, these external factors pushed the EU away from its "naivete" towards liberal globalization and the free market (Bauerle Danzman & Meunier, 2023). Challenges of globalization and the rise of protectionist measures worldwide have caught up with the EU, forcing a rethink of its approach to international trade and economic openness (Garcia-Duran et al., 2023).

If external factors made the EU's pivot towards economic security necessary, internal factors made it possible. Demands for more economic security emanated from some of the member states starting in 2017 (see Calcara & Poletti, 2023) and from some business interests (Vlasiuk Nibe, 2023). In the wake of Brexit, the urge to develop industrial policy at the EU level has gained

new impetus, pushed forward by specific EU members (see Donnelly, 2023; Hoeffler, 2023). The EU's geo-economic turn was also made possible by the transfer of competence over foreign direct investment policy to the EU level (Meunier, 2017) and by the skilful political entrepreneurship of the Commission (Vlasiuk Nibe et al., in press).

The combination of the weaponization of economic interdependence, the undermining of liberal international economic order by the EU's main economic partners and competitors for their own geopolitical purposes, and the blurring of economy and security meant that the time was ripe for the European pivot towards economic security.

2.2. Developing a Panoply of EU Geoeconomic Tools

"Strategic Autonomy" encompasses the EU's broader aim of being able to act independently in various economic spheres without undue external influence or dependency. The EU's trade strategy has also been evolving to ensure that trade policy supports its strategic autonomy while promoting multilateralism ("open strategic autonomy") and addressing challenges like climate change and digital transition (European Commission, 2021). In light of global disruptions such as the Covid-19 pandemic, the EU's emphasis is on creating more resilient and diverse supply chains, especially in critical sectors like pharmaceuticals, semiconductors, and raw materials.

Within a short amount of time, the EU has developed a broad range of geoeconomic tools to implement its new ambitions. Some of the new instruments are designed to promote European industry and business, while others aim to protect the single market from exploitation by third countries but also from the exit of key technologies and raw materials. Among the defensive instruments that have already been decided are the Investment Screening Framework (2019), the Foreign Subsidies Regulation (2022), and the Anti-Coercion Instrument (2023).

The EU has also launched a series of offensive initiatives, for example, the International Procurement Instrument (2022), which aims to ensure reciprocity in market access for public procurement. Reducing dependency on external energy sources, especially from geopolitically sensitive regions, has been a priority. This includes diversifying energy sources and routes and promoting renewable energy within the bloc. The aim of the proposed Net Zero Industry Act (2023) is to strengthen the EU's self-sufficiency through major investment in the development of green technology and industrial capacity. The Critical Raw Materials Act was proposed in March 2023 by the Commission to increase domestic production of critical raw materials and reduce dependency on other countries, particularly China. This is not about protection but about diversification of suppliers. The European Chips Act (2023) aims to ensure the EU's security of supply, resilience, and technological leader-

ship in semiconductor technology. All these instruments are designed to bolster the EU's Green Deal, which is both a climate strategy and a growth strategy, with climate considerations and climate policy goals guiding all aspects of the EU's economic policy.

The protective instruments, the promotive legislation, together with an ambition to establish new global partnerships, were brought together when the Commission launched the European Economic Security Strategy in June of 2023.

3. The Three Pillars of Economic Security: Thematic Issue Contributions

We have grouped the contributions to this thematic issue under these three pillars of economic security. This is not a perfect grouping: Several articles address several pillars at once, while a few may not fall neatly under any of the three pillars. Nevertheless, they are sorted according to the three pillars to highlight current and possible future developments that serve to fortify the EU's new strategy, or potentially undermine it.

3.1. Promote

The European Economic Security Strategy aims at "promoting the EU's competitiveness, strengthening the Single Market, supporting a strong and resilient economy, and fostering the EU's research, technological and industrial base" (European Commission, 2023, p. 6).

Donnelly (2023) analyses how geopolitical threat assessments drive the US and the EU to protect critical ICT infrastructure from foreign influence and ownership, but also to promote independence in semiconductor research, development, manufacturing, and packaging. This article finds evidence that while the Trump administration adopted new forms of protectionism in many economic sectors, the Biden administration took the promotion of US industrial development much further, motivated by an explicit security threat from China. He argues that the EU's 2023 Economic Security Strategy reflects a similar approach and constitutes a step-change in promotion, albeit with fewer EU-level resources. It also seeks to partner with allies, though this largely translates into US companies building chip plants in EU member states. France emerges as a pace-setter in promoting independent technological capacity among the larger member states, while Germany continues to discount the drive to promote independence. The article examines the increasing importance of Waltian geopolitical security threats on both sides of the Atlantic as a driver of industrial policy, export controls, self-sufficiency, and friendshoring as a replacement for dependence on global supply chains. However, Donnelly (2023) also argues that, on the European side, differing national preferences dilute a Waltian turn with continued attachment to liberal (global supply chain) approaches to chips, 5G infrastructure, and a Waltian realist stance (capacity-building to build,

protect, and promote regardless of security threat) that occupies the middle ground.

Vlasiuk Nibe (2023, p. 149) takes as a point of departure that the Economic Security Strategy places investment screening within the framework of strategic priority on protecting Europe from “commonly identified economic security risks” and that the realisation of this priority requires the active participation of the private sector. Against this background, this author asks whether market actors share the same risk perceptions and what their incentives for security-motivated investment screening are. Studying business actors in Denmark, one of the most liberal member states initially sceptical about the idea of investment screening in Europe, Vlasiuk Nibe (2023) shows how they gradually accepted the idea of investment screening in the context of uncertainty and the gradual utterance of security threats by the European and local political elites. Being exposed to emerging security discourses across different levels and networks, businesses adjusted their policy preferences balancing between different identities. This author argues that the flexibility inherent in a multilevel and evolving securitisation process led to a legitimization of investment screening policies among interest groups that subsequently mitigated their resistance to the imposition of market constraints on security grounds. Throughout the policy-making process, Danish businesses embraced a two-fold perception of investment-related threats. The first aspect included a narrow understanding of specific sectors deemed vital for the functioning of society, such as critical infrastructure or strategic technologies. The second aspect related to investment coming from “non-friendly” countries, primarily from China. This article serves to illustrate the interface between protecting and promoting European economic and security, both at an ideational and empirical level.

Hoeffler (2023) studies economic patriotism in EU armament policy. This article underlines how, while linked to military security, armament policy is also shaped by economic security concerns, as its firms depend on global supply chains and rely on exports. Armament is thus a fertile site to observe how, before the publication of its 2023 Economic Security Strategy, the EU created instruments to secure its industrial and technological capacities. Furthermore, Hoeffler (2023) highlights how the European Economic Security Strategy testifies to the growing entanglement of the economic and security logics in EU policies. Armament shows how the EU’s shift away from liberalism does not, so far, translate into EU-level protectionism. In the language of the Economic Security Strategy, the European Defence Fund (EDF) relies on a mix of promotion and protection: The EDF promotes European firms, but only as part of a circle of insiders larger than the EU, and only protects insofar as it insulates European decision making from foreign interference. Far from an EU fortress in arms, the EDF and current initiatives reveal how the EU, on the one hand, tries to walk the fine line between securing EU

defence industrial capacities and cultivating the transatlantic security space, on the other. Achieving both is a very delicate balancing act. Hoeffler (2023) argues that understanding what the EU will make of its Economic Security Strategy in the years to come requires going beyond dichotomies such as Atlanticist/Europeanist and liberal/protectionist and looking at how they combine in specific policy instruments.

3.2. *Protect*

The second pillar of the EU’s Economic Security Strategy is to protect against economic security risks through a range of existing policies and tools, including targeted new instruments where needed. These would be applied with proportionality and precision to limit any unintended negative spill-over effects on the European and global economy (European Commission, 2023, p. 3–6).

Garcia-Duran et al. (2023) focus on how the EU is seeking to protect itself against ever more sophisticated economic security risks. The authors argue that there has been a rapprochement between the trade and security paths due to a common ideational framework and strategic autonomy, exemplified through trade defence instruments with security objectives. These instruments are justified in the European Economic Security Strategy, especially the pillar focused on protecting against economic security risks. The Economic Security Strategy builds on the 2021 trade strategy, which focuses on openness, sustainability, and assertiveness. Drawing on work addressing ideational and instrumental levels of policy, the authors discuss how the EU is assessing the international environment through the ideational framework of strategic autonomy and how this has shaped the construction of new trade defence instruments intended to protect against economic and technology-related security risks. Focusing specifically on trade defence instruments addressing security concerns, which are justified in the 2023 European Economic Security Strategy, they show that the distinction between commercial policy and traditional security concerns is eroding. They argue that the EU may be less keen on geopolitics than its main competitors, but the security logic central to its quest for strategic autonomy will guide policies for the foreseeable future.

Turning their attention to the internal conditioning of the EU’s turn to market protection, Calcara and Poletti (2023) investigate why the Italian government suddenly changed position in the negotiations for the setting up of an EU-wide investment screening mechanism, shifting from leading supporter to staunchest opposer of such policy initiative. They emphasise how two factors combined produced this puzzling outcome. First, the role of political parties as drivers of governments’ foreign economic policy choices. Second, the tension between two different “varieties” of anti-globalism. Calcara and Poletti (2023) contend and show that the uniting of the Lega Nord and the Five Star movement around the common

denominator of anti-Europeanism was crucial in leading the Italian government to support a strategy of internal, rather than external, re-bordering in the context of negotiations for the establishment of a new investment screening regime in the EU. Their article effectively illustrates some of the political dynamics that may affect the EU's ability to put in place strategies to better protect its economy from security risks. The European Commission itself acknowledges that united and coordinated EU action is crucial if the EU wants to successfully shield its own economy from the security risks posed by new geopolitical and technological realities. Their article suggests that the likelihood that the EU will be able to engage in such strategies of external re-bordering is crucially affected by the variety of anti-globalism that will come to dominate the narratives and political choices of anti-globalist parties across EU member states in the coming years.

Similarly, Dannerhäll (2023) investigates the trade policies of the radical-right party, the Sweden Democrats, between 2010–2022. Using the free-trade rhetoric of the Sweden Democrats as a point of departure, the author asks whether this means that the Swedish Democrats are not a protectionist party, thereby breaking the pattern among most other radical-right parties. By widening the definition of protectionism to include non-tariff barriers to trade in addition to tariffs and quotas, the author finds that the Sweden Democrats promote both protectionist and liberal trade policies. Advocacy of protectionist policies is grounded in protecting ethnonationalist notions of Swedish culture, history, and identity, while liberalisation emerges as a response to elite co-optation of the international trading system. Dannerhäll (2023) highlights that the dimension of the state as a guarantor of national security is likely to gain analytical relevance for the study of radical right parties and trade policy, given the geopoliticization of international trade and investments. The author also links this to the Economic Security Strategy. Because the strategy represents increased EU involvement in the security, as well as industrial, policy of the member states, it may activate populist antipathy of international organisations, particularly given the deep-seated scepticism of the EU of the Sweden Democrats. At the same time, the empowerment of states to safeguard economic security may appeal to authoritarian tendencies in the Sweden Democrats and radical-right ideology that prioritise security over economic aspects.

3.3. Partner

The third and final pillar of the European Economic Security Strategy aims at partnering with the broadest possible range of partners to reinforce economic security, foster resilient and sustainable value chains, and strengthen the international rules-based economic order and multilateral institutions, such as the World Trade Organization. It also means furthering and finalising trade agreements, and investing in sustainable devel-

opment through Global Gateway (European Commission, 2023, p. 3).

Dür and Lechner (2023) study the winners and losers of trade agreements through the prism of stock market reactions to news on the Transpacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). Their empirical test relies on a dataset with daily firm-level stock price data for close to 4,000 US companies over the period 2009–2016. Concretely, the article assesses how the shares of different types of firms reacted to the news on the (lack of) progress of the negotiations aimed at concluding the TPP and TTIP. The authors also present a novel approach to measuring progress and stagnation in international trade negotiations using computational text analysis. In contrast to a view that sees the largest companies as the main beneficiaries of trade agreements, Dür and Lechner (2023) find that medium-sized and diversified firms benefit the most from trade agreements. This insight, they argue, helps to better understand the distributional effects of trade deals. It is also relevant for the EU's economic security strategy, which suggests fostering trade agreements with a wide range of partners. Concretely, the study shows how difficult it can be to partner even with countries that are close geopolitical allies and at a similar level of economic development. Moreover, their study suggests that recent policies that have the potential to reduce global openness under the banner of "economic security," such as the EU's Economic Security Strategy, may negatively affect (especially) mid-sized firms that find it more difficult to adjust to new circumstances than the largest firms. If such policies really favour the largest players, they may reduce rather than enhance countries' resilience to shocks.

García (2023) turns the attention to EU PTAs. EU PTAs are a key part of EU trade policy and represent an important component of the new Economic Security Strategy's partnership pillar. PTAs are expressions of, and instruments to achieve, the pillar's goal of establishing ties with other states and diversifying trade and economic relations to limit excessive interdependence with key partners and limit the risk of these partners weaponizing that interdependence. The author argues that PTAs are not always implemented fully, which can jeopardise the achievement of this strategy. A more assertive EU trade policy is placing renewed emphasis on PTA implementation. The article starts to map issues raised in joint bodies created in PTAs. It finds that the key issues the EU focuses on relate to market access for agricultural goods, sanitary and phytosanitary measures, geographic indications, (to a lesser extent) government procurement, services, labour, and environment. García's (2023) initial analysis shows that joint Committees created in PTAs are able to resolve matters, especially when these relate to proposals for new regulations and laws, as opposed to changing those already in existence, and tend to be more successful in newer agreements. Coinciding with the shift to a more assertive policy, since 2019 there has also been

an increase in opening actual dispute proceedings within PTAs. Most disputes relate to market access in sectors of little economic relevance to the EU, but they serve to make the critical point that the EU will enforce its PTAs and demand respect for trade rules and commitments, the key message of the 2021 Trade Policy Review and the 2023 Economic Security Strategy.

Heldt (2023) explains the establishment of the EU's Global Gateway strategy—a new geopolitical instrument to project the EU as a global infrastructure lender. With a geographical focus on Africa, it links infrastructure investment projects with condition principles—including democratic values, good governance, and transparency—and catalyses private investment into EU development financing. Heldt (2023) argues that a combination of three factors enabled the Global Gateway: China's role as a global infrastructure lender in Africa; the shift to private investment in multilateral development financing; and the transformational leadership of the European Commission as an entrepreneurial agent. The EU's Global Gateway marks a geopolitical turn in EU politics through which the EU can project its power in the world. At the same time, it illustrates the third pillar of the EU's Economic Security Strategy, namely, partnering. The global gateway intends to partner with countries pursuing similar de-risking strategies and that also have common interests with the EU. At the same time, strategic competition with China has just begun and it remains to be seen whether the EU will be able to position itself as a geopolitical power to become a game changer in global infrastructure finance or if it will remain a mere shadow in the prevailing US–China rivalry.

Hamanaka (2023) makes two main claims: First, a state's legal tradition is embedded into its domestic institution in each issue area. Second, a state that has a common/civil law type domestic institution in a certain issue area prefers a common/civil law type international agreement on the same issue area. By conducting a theoretical and empirical investigation in three issues areas covered by free trade agreements, Hamanaka (2023) demonstrates that different modes of governance are preferred by civil and common law states domestically and internationally and this difference partially explains (non)participation in international agreements. This author also links the impact of domestic regimes to the partnering pillar of the Economic Security Strategy. The critical component of the EU's partnership strategy is the signing of Free Trade Agreements or Economic Partnership Agreements, which include regulatory issues. If the EU has civil law-type regulatory regimes in a certain issue area, states that have similar regulatory regimes could be good partners in such a field. This, in turn, means that if a potential partner's domestic regulatory regimes can be adjusted in line with the EU, the partnering strategy is more likely to succeed. With technical cooperation and other forms of assistance, it is possible to help develop regulatory regimes compatible with the EU in partner states. Without consistent domestic

regimes, issue-specific international cooperation might not be possible.

4. Conclusion: A Paradigm Shift or the Continuation of the Same Objectives Through Different Means?

A remaining question running through all the articles is whether the adoption of an economic security strategy is a paradigm shift. "Economic security" has two different meanings. On one hand, it means ensuring security through economic tools, such as investment screening. Though the tools may be novel, using economic instruments to achieve security goals is not new for the EU, which has long leveraged the power of its single market for other purposes. This approach to economic security would be the continuation of the same goals through other means, and thus would not represent a true paradigm shift in the EU's approach towards globalisation. On the other hand, "economic security" means ensuring the security of the economy. This could be achieved, for instance, through the diversification of supply chains, reindustrialisation, de-risking, and friendshoring. For the EU, this would be a paradigm shift and a crossing of the Rubicon of sorts towards the protectionist side, as a lot of policies can be subsumed under economic security. While this shift is deeply contentious between member states, it seems popular with a public opinion eager for more protection and assertiveness.

If it is really a paradigm shift, this opens up several important questions, to be addressed in future related research. First, how will all these new economic security policies be financed? Will the EU need its own resources to compete with similar policies in other countries, such as the US' Inflation Reduction Act that offers \$369 billion in subsidies and tax credits? Will these policies be a public or private sector responsibility? Second, will the EU be a leader or a follower in economic security and what will be the reaction of its economic partners and competitors? The answers to these questions will to a large extent determine the future of the liberal international economic order.

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Conflict of Interests

The authors declare no conflict of interests.

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About the Authors



Guri Rosén is an associate professor at Oslo Business School, Oslo Metropolitan University. She is also an associate professor at the Department of Political Science, University of Oslo, and a researcher at ARENA Centre for European Studies, University of Oslo. Her current research interests are the trade politics of parliaments and parties, reasons for and responses to the anti-globalization backlash, as well as the securitisation of trade and investment.



Sophie Meunier is a senior research scholar at the Princeton School of Public and International Affairs, Princeton University. She is director of the program in Contemporary European Politics and Society, co-director of the EU Program at Princeton, and acting director of the Liechtenstein Institute on Self-Determination at Princeton, as well as chair of the European Union Studies Association. Her current research focuses on the politics of trade and investment in the European Union and on the rise of geoeconomics and the emotional economy of the European financial crisis in the UK press.

Article

Semiconductor and ICT Industrial Policy in the US and EU: Geopolitical Threat Responses

Shawn Donnelly^{1,2}

¹ Public Administration Section, University of Twente, The Netherlands; s.donnelly@utwente.nl

² Institute of Political Science, Leiden University, The Netherlands

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Abstract

This article analyses chips and critical ICT infrastructure policy in the US and the EU. It examines the increasing importance of Waltian geopolitical security threats on both sides of the Atlantic as a driver of industrial policy, export controls, self-sufficiency, and friendshoring as a replacement for dependence on global supply chains. It shows that threat perceptions are strong and bipartisan in the US, allowing comprehensive, strategic and well-funded industrial policy. Threat perceptions driving chip and 5G industrial policy are also present in the EU's Economic Security Strategy and related policies. However, differing national preferences dilute a Waltian turn with continued attachment to liberal (global supply chain) approaches to chips and 5G infrastructure and a Waltian realist stance (capacity-building to build, protect, and promote regardless of security threat) that occupies the middle ground.

Keywords

5G; European Union; industrial policy; national security; semiconductors; strategic autonomy; supply chains; United States

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1. Introduction

How have government attitudes toward involvement in chip manufacturing and 5G development changed in response to recent pressures on supply chains and concerns about their reliability? Since 2022, Western states have become increasingly concerned about ensuring a secure supply of physical infrastructure in semiconductors, telecommunications equipment, and ICT-capable devices. In some cases, supply chains have been disrupted by the Covid-19 pandemic. In others, governments have been increasingly concerned about geopolitical disruptions and the potential for malicious exploitation of vulnerabilities in internet communications on which their economies, governments, and societies increasingly rely. This includes technology transfer through inward foreign direct investment and technology exports to countries beyond the circle of allies. Particular attention in these areas is reserved

for China, given several concerns about the increasing potential for political and geopolitical confrontation, the disruption to chip production that could follow from a Chinese attack on Taiwan, and the role that these technologies could play in a future conflict. In this context, this article seeks to parse out the drivers behind state-led ICT strategies in Europe and the US and extrapolate current trends into options and likely trajectories for the near future. It contrasts the relative strength of motivations for self-sufficiency (general capacity-building), security (development to meet a threat), and economy (building infrastructure without concern for self-sufficiency). It also touches on 5G infrastructure development through the same lenses and compares these developments with realist and liberal international relations theories. It also illuminates the impact of institutional power on the relative capacity of EU and US officials to translate geopolitical concerns into concrete action.

2. Realism, Liberalism, and State Behaviour in Chip and 5G Development

To study the degree and motivations for change in state behaviour toward chip and ICT infrastructure, it can be useful to think of a spectrum of responses between realism and liberalism, with full autonomy and self-sufficiency on one end of the spectrum and a *laissez-faire* attitude on the other. The liberal end of the spectrum reflects the dominant attitude of European and American governments prior to the Trump administration in the US (2017–2021) and the Van der Leyen Commission in the EU toward the development, production, and use of chips and 5G network infrastructure. The EU and US had allowed global supply chains to develop in chips and ICT infrastructure in the pursuit of cost efficiency, economic interdependence, and friendly political relations. Companies shifted production abroad, concentrated it in Taiwan and Korea, and incorporated China into the assembly process. Chips and ICT infrastructure could be purchased at the lowest price and rolled out regardless of provider, and geopolitical conflict would be contained by states seeking to preserve the welfare gains provided by interdependence. Norms and values could be calibrated by specific tools and agreements in the pursuit of “managed globalization” (Meunier, 2007).

The realist end of the spectrum in contrast stresses self-sufficiency in critical resources, technologies, and infrastructure to ensure survival through strength and self-reliance, adapting to changing conditions, including the relative advances of other countries where required to secure a favourable balance of power. The most extreme form of this drive is entirely self-sufficient: pursued through a country’s independent capacity (internal balancing) or trade wars and other attempts to drag any potential rival down in relative power (mercantilism). It can also be pursued collectively by distinguishing friends from foes and bundling capacity with allies (external balancing through friendshoring). Realist motivations can be seen in efforts to develop hardware and manufacturing, as well as software like artificial intelligence as core components of economic power. It can also be seen when the state restricts economic activity across borders due to their implications for international power.

Within the realist paradigm, theorists distinguish two takes on when states do this. Waltzian realist thought (Waltz, 1979) expects states to engage in automatic balancing: continuously seeking self-sufficiency in national economic capacity and technical prowess to protect and promote their position in the international system. In contrast, Waltian realists (Walt, 1990) expect balancing primarily in response to a perceived concrete threat that turns a lack of resources or dependence on others into a source of weakness and insecurity. Attention to security and independence ebbs during periods of decreased security concerns but returns when confronted with a real or perceived threat, leading states

to fear for their status in the international system, or their ability to resist coercion from other states.

There is a growing literature on realist balancing, portrayed as geopolitical turns in foreign (economic) policies of the EU and the US (Di Carlo & Schmitz, 2023; Meunier & Nicolaidis, 2019; Schmitz & Seidl, 2022) since 2015–2016. We can see Waltzian attention to the relative balance of power in the EU’s desire to build Strategic Autonomy for its own sake, and the Trump administration’s efforts to undercut China’s economic growth and enhance American exports. More recent policy in the US and EU reflects security threats, particularly Russia (since the 2014 invasion of Crimea), and China (regarding threats against Taiwan, its stance toward Taiwan’s supporters in the West, and the Chinese wave of foreign investment into Europe buying tech companies generating military or dual-use goods and services; Genschel & Schimmelfennig, 2022). The Biden administration’s emphasis on the threat from China (Walt, 2021) sets it apart from the more generalised hostility of the Trump administration toward China on geo-economic grounds while downplaying China’s great power ambitions in its region.

The realist concern for state capacity to provide for security is also reflected in extant literature tracing the impact of security threats. Kelemen and McNamara (2022) show the EU developing institutionally to better respond to real and perceived threats to its existence. State intervention related to security and survival is also studied in new literature on the regulatory security state (Levi-Faur, 2023), which justifies and exercises the use of regulatory power to shape the behaviour of companies and governments with narratives of providing public safety and international security. Particularly useful for the discussion regarding chips and 5G infrastructure is the distinction between two versions of the security state: the positive security state (which produces security goods) and the regulatory security state, which produces them by rules. These developments in turn rest on ideas and meanings underpinning a focus on security and the implications thereof as much as interests and institutions of policy development (Kruck & Weiss, 2023). In between these two ideal types, we can think also of industrial policy measures in which the state prompts the production of security goods with subsidies. It is not the intent to use these analytical categories as mutually exclusive, but potentially complementary. Subsidies, production, and rules surrounding trade, or the source of company and fixed capital investments relate to one another by stimulating and shaping production in the private sector as much as in public goods provision (Donnelly, 2023a; McNamara, 2023).

Despite similarities between the US and Europe, the geopolitical turn happened earlier and more strongly in the US than in Europe. This article argues that this is primarily a result of different political attitudes. In the 2020 American general election, both political parties adopted realist, anti-China tech trade and investment policies that permitted a hard, threat-based realist foreign economic

policy. In Europe, the Commission needed to balance its newfound realist worldview against more liberal preferences of its most powerful member state and a policy legacy of open trade promotion.

This article conducts a congruence analysis between the theoretical approaches outlined above and the behaviour of the US and EU institutions, as well as France and Germany from 2019 to the present. It examines investment in independent hardware manufacturing as an alternative to dependence on foreign suppliers, state backing of companies and state protection of national companies from foreign takeover where new capacity is located. The article looks at whether governments seek self-sufficiency (internal balancing), selective interdependence with allies (friendshoring, external balancing), or continued reliance on global supply chains (liberalism). France and Germany are major technological and foreign policy players in Europe, which makes them interesting parts of the European case study. But they also have distinct stances that influence what the Commission chooses to do.

The time period incorporates the pre-Covid-19 status quo and allows us to contrast that with the evolution of EU, French, and German policies and initiatives. This will simultaneously allow us to parse out different possible motivations, including the supply chain bottlenecks introduced by Covid-19, concerns about China's combination of technological advancement and political/military hostility towards allies (Taiwan), the rules-based international order (South China Sea disputes) and the West in general (support for Russia's war against Ukraine), and, finally, US positions and policy actions as a friendly power whose actions nevertheless may have negative externalities for the EU and its member states unless coordinated (Chips and Science Act shutting out EU actors, compelling brain drain and R&D loss). While this could be framed by EU actors as poaching, it might also be considered an impetus for the EU and member states to follow suit.

3. The American Context

The American approach to semiconductors prior to the Trump administration was one of liberal interdependence and global supply chains, resulting in a transfer of manufacturing from the US to East Asia in the late 20th and early 21st centuries. The Trump administration imposed Section 301 tariffs in 2018 amounting to 25% on a number of imports citing national security reasons, including Chinese semiconductors. Despite the national security claim, these tariffs addressed economic complaints against dumping subsidised goods. It then followed in 2019 with export restrictions on chips destined for Chinese telecoms giant Huawei, which exported smartphones and 5G telecoms equipment. This time national security concerns about spyware access were articulated (Bown, 2020), as is shown in its attacks on the Chinese social media app TikTok. By 2020, the Trump

administration had convinced Taiwanese chip manufacturer TSMC to plan a plant in Arizona, and the National Defence Authorization Act had been passed to boost chip manufacturing (Bown, 2020).

American pressure on European countries and the EU itself focused on concerns that Huawei 5G infrastructure, while cheaper and highly advanced, would leave companies, governments, and individuals exposed to surveillance, industrial espionage, and cyberattacks backed and/or demanded by the Chinese state. These concerns were articulated by both the Trump and Biden administrations. They considered Chinese 5G infrastructure in Europe both a security risk and a concern for those within the American intelligence community that sharing information with allies came with a risk of unwanted surveillance by non-allies. This generated tensions with Europe, which Friis and Lysne (2021) show accepted only partially the White House's security concerns about China. Neither the US nor China linked semiconductors to any specific military threat, however.

Under the Biden administration, strong bipartisan support, including a Senate supermajority of 60% of votes required to pass legislation, existed on identifying China as a national security threat, and semiconductors as a key strategic asset, despite the ubiquitous polarisation of party politics. The administration retained and strengthened the anti-China policies and Section 301 trade tools of its predecessor in its election campaigning and its domestic economic policies. These sought to rebuild manufacturing and infrastructure in a wide variety of sectors, including semiconductors. Rare bipartisan agreement in an otherwise polarised environment can be seen in the Chips and Science Act of 2022, which intended to restore industrial manufacturing, as well as research and development in the chips sector, from design to packaging, creating self-sufficiency for the American economy. The proposal was made on July 1, 2021, and approved on August 9, 2022. It was considered both a reaction to the supply chain vulnerabilities of the corona years, as well as a response to a decline in the US share of global semiconductor production, and a strategic national security imperative to ensure technical supremacy vis-à-vis China (Donnelly, 2023a; Wang & Sotomayor, 2022).

The industrial policy investments made by the Chips and Science Act were significant. Congress shaped the Chips and Science Act to make investments in a wide variety of initiatives with a total budget of 280 billion dollars, with 54 billion earmarked for semiconductors. The building of manufacturing and packaging facilities would be supported through the Department of Commerce with 39 billion dollars, and research and development (also through the Department of Commerce) with 11 billion, including a National Semiconductor Technology Center, a National Advanced Packaging Manufacturing Program, a Manufacturing USA Semiconductor Institute to promote public-private coordination, and a Microelectronics Metrology programme at the National Institutes of Standards and Technology. Two billion was reserved

for the Department of Defence for coordination and information-sharing. In addition to the money allocated through the Chips and Science Act, a manufacturing investment tax credit was designed and passed to compensate American businesses for price differentials between American and offshore chip manufacturing derived from foreign subsidies. In all these cases, recipients would be banned from producing in countries “that present a national security concern, including the People’s Republic of China” (Van Hollen, 2022). Investments soon followed in a number of states (Whalen, 2022a, 2022b).

The national security facet of American chip policy became even more prominent in October 2022 as concern rose that China might use the US’s commitment of resources in Ukraine to mount an invasion of Taiwan, cutting the US and the rest of the West off from chips for both military and civilian purposes. In this environment, an executive order on export controls not only banned the export or development of highly advanced chips to China by US companies and nationals but also lower-tech chips. Whereas exports of older chips were previously permitted once a new generation of processors had come out, they would now be restricted more comprehensively in order to suppress China’s semiconductor and computing capacity. Restrictions on US companies were further enhanced by US agreements with Dutch and Japanese companies in March 2023 to introduce export controls for the most advanced chips and production equipment (Bounds et al., 2023; Liu et al., 2022; Nellis et al., 2022). In August 2023, a White House executive order made even more explicit that export controls were designed to shape the balance of capabilities in artificial intelligence, cryptography, surveillance, advanced weapons systems, and quantum computing (The White House, 2023).

This support relied not only on the shared support for re-industrialisation and the spread of high-quality jobs throughout key parts of the US (particularly battleground states of Ohio and Arizona) but also the shared view of Democrats and Republicans that China formed an imminent threat to US national security that justified an American industrial policy plan to produce critical infrastructure, including chips, at home (Sevastopulo, 2023; The White House, 2022). Overall, these observations demonstrate a Waltian turn in the US, pursuing self-sufficiency and technological leadership in response to threats, making the US a leader in semiconductor manufacturing and less dependent on other countries in the supply chain. The broad agreement on both these points subsequently shaped how the EU and its member states approached the question of whether and how to subsidise chips and ICT infrastructure in the interests of national security.

4. The European Case

The EU began the realist turn in semiconductor and 5G policy much later than the US, following a liberal mar-

ket approach until 2019, and introducing concrete initiatives in 2022, after the US had passed its own initial measures. The first European Commission interest in industrial policy in chips can be found in 2013 when it permitted EU, national, and regional state aid to attract private investments in chip research, development, and industry within a broader pro-market strategy (European Commission, 2013). However, the Digital Single Market (DSM) of 2015 that followed was indiscriminate about where ICT infrastructure and hardware were sourced, as long as it was installed and used. The DSM envisaged companies and consumers using that infrastructure to support online commerce (retail, wholesale, and financial) in products, services, and companies seen as sunrise industries connected to the Fourth Industrial Revolution, and a data-driven economy that could start to compete with American digital giants. The Commission also sought to extend existing regulations to the digital realm (consumer protection, contract law, competition policy), introduce new regulations (privacy and illegal content law), and promote further investment by companies and national governments in 5G+ communication, satellite support, and datacentre infrastructure quickly and extensively.

This DSM’s liberal emphasis discounted arguments from the EU security community that investment in independent production capacity, infrastructure, and R&D was urgent and beneficial, given the dual civil and military uses of most technologies. The European Union Institute for Security Studies argued in 2009 that technology transfers from the EU to China should be viewed through the lens of connections between technology, economic power, and security (Stumbaum, 2009). Council calls for a focus on domestic technological prowess came in 2013 (with a European Defence Technological and Industrial Base) but had to be repeated in 2015. The Commission approved a 2018 joint research and development initiative by France, Germany, Italy, and the UK for microelectronics by allowing state aid (European Commission, 2018). However, efforts to promote chip development remained related to general economic and technological capacity.

Geopolitical concerns gained traction in the EU in 2018 in response to a trade war with the US, and growing concerns about inward investment from China through which European companies could lose and transfer critical technology and hardware (Meunier & Nicolaidis, 2019). EU member states experiencing high concentrations of Chinese investment in these sectors supported the investment screening proposals that followed (Chan & Meunier, 2022), supporting an increasingly closed-door policy (Bauerle Danzman & Meunier, 2023).

By 2019, the EU’s liberal approach started to shift from a liberal stance (Stolton, 2023) to emphasise security concerns, allowing resources to be committed to military uses for the first time. The European Defence and Industrial Development Programme advanced arguments that military research and development could

boost civilian technology as well, justifying a budget even to those sceptical that security threats justified investments in Europe's military capacity (Scheinert, 2017). The groundwork preparing this shift outlined civilian technology spinoffs in consumer electronics based on previous military development projects (microwaves, smartphones, wifi, and navigation). The EU–NATO Centre of Excellence for Cybersecurity highlighted concerns in particular about the Chinese government's capacity to order Chinese companies to conduct surveillance of communications and exploit access to information with potential implications for industrial advantages, political interference, and military implications of Chinese control of communications, command, control infrastructure, as shown in research emanating from the joint EU–NATO Centre of Excellence on Cybersecurity (Kaska et al., 2019). However, funding for chip research and development remained limited (Fiott, 2020). Chip design remained largely in the US and production proceeded to concentrate in Taiwan (TSMC), with additional capacity in the EU (ASML in the Netherlands) and Korea (Samsung), and Huawei (China) was central to many national bids to construct telecommunications networks (5G) well into 2021.

By 2021, the Commission showed greater concern about the use of semiconductors and other technology in China's military build-up, and President Xi's concept of Military–Civil Fusion directing technology toward military use against Taiwan (European Commission, 2021). These concerns were visible in the Commission and Council after the Biden administration took office in 2021. Then we see transatlantic discussions over export controls and domestic development take place, and internal discussions within the EU and its member states.

The impetus for European industrial policy to spur chip development appears to lie in Washington D.C. and is fuelled further by existential threats to the EU. Proposals in Europe to boost domestic chip production came as early as 2020, but actual resources and laws followed American initiatives. The European Commission showed interest in transatlantic cooperation with the US as a response to Covid-19 shortfalls in the development of research, development, and industrial capacity as an alternative to each side competing with the other over resources. The European Commission's September 2021 State of the Union address announced the Commission's desire to revive efforts to produce chips for the EU market (European Commission, 2021). The reason was neither a perceived security threat nor a need to be self-sufficient but to address a market shortage exacerbated by over-reliance on foreign providers. Commission officials discussed chip development with American counterparts two weeks later at the first Trade and Technology Council meeting in Pittsburgh. That meeting was meant to reconfigure global supply chains in the aftermath of Covid-19 together, rather than in competition with the US. The European Commission's (n.d.) chip plans did not share American concerns with perceived Chinese threats to Western security, however, proposing

instead that Europe build on its earlier initiatives, permitting national state aid to build "open EU [chip] foundries" and "integrated [chip] production facilities" focused on ensuring supply and overcoming scarcity. Additional money, that labelled the Digital Europe Programme, would be redirected from within the EU's science promotion fund (Horizon) and funds earmarked to promote the digital single market (European Commission, n.d.).

By 2022, the passage of the Chips and Science Act generated concerns in the Commission that the US might pursue domestic chip manufacturing and re-industrialisation at the expense of the EU, luring European companies, talent, and investment to the US market seeking to ensure market access there and benefit from state subsidies in research, development, manufacturing, and packaging. In addition, the EU showed concern about similar initiatives from China, Japan, Taiwan, and Korea (Ragonnaud, 2022). US insistence on a link between chips, communications technology, and military security gained traction in the EU in the context of Russia's war on Ukraine. Mügge (2023) shows that the conflict brought together the relevance of chips, 5G infrastructure, software, cloud services, and, most prominently, artificial intelligence in contests with adversaries that the Biden administration had been advancing. This meant domestic re-shoring of chip production and export controls on chips and fabrication equipment, which targeted EU companies as well.

The EU Chips Act, proposed on February 9, 2022, and passed on July 25, 2023, is the European answer to the need for industrial capacity in chips, and to the American Chips and Science Act, which achieved first-mover advantages in industrial subsidies to semiconductor manufacturers. The Commission cited first the impact of Covid-19 on supply chains, which had hobbled industry (European Commission, 2023a). It envisaged 11 billion euros in subsidies and hoped for an additional 32 billion in national subsidies, with Industry Commissioner Bréton ensuring that companies and governments would enjoy an exemption from state aid restrictions that normally apply under EU law (Bounds et al., 2022). However, we see here a combination of motivations and approaches, with liberalism on the one hand (director general competition: Vestager) and a Waltzian strive for self-sufficiency and "strategic autonomy" without a specific threat (director general internal market: Bréton), without Russia's invasion of Ukraine generating a Waltzian threat response. This split is replicated between member states (see below in this section), making more ambitious plans difficult to support.

The absence of a threat response and the contested drive for strategic autonomy in 2022 can be seen in the conflict between Industry Commissioner Bréton and Competition Commissioner Vestager over state aid for chip development and production. While director general competition had issued block exemptions more easily during financial crises, Vestager warned against taxpayer subsidies for chip manufacturers and

encouraged governments to accept European dependence on foreign producers. Bréton, in contrast, saw independence from global supply chains as crucial, and national and EU projects as vital to achieving that goal. Commission President Von der Leyen appeared to take Bréton's side early on, although with a reference to Covid-19 disruptions to market functioning rather than his Waltzian push for strategic autonomy or a Waltian concern for national security. She touted 200 billion in funds from the historic NextGenerationEU fund (750 billion euros for Covid-19 reconstruction) being spent on digital industrial capacity while visiting the world's premier producer of extreme ultraviolet chip lithography fabrication equipment, ASML, in 2021 (Carrer & Lanzavecchia, 2021).

Within the EU Chips Act, national state aid dominated: Out of the 43 billion euros in subsidies headlined, almost all would be provided by the member states, and the 3.3 billion euros earmarked for research and development from the EU's budget would not be new money but diverted from other research and development programmes. The only new money in this fund came from the NextGenerationEU fund established to reconstruct Europe. This meant that national subsidies would be permitted without any meaningful restrictions from the Commission. Well-endowed member states stood to benefit strongly, raking in most of the economic and political advantages, while others would have to rely on NextGenerationEU investments. Parliament expressed support for the EU Chips Act to counter dependence on China, but also its reliance on the US. It also accepted the initiative on the grounds that it would enhance Europe's strategic autonomy and digital sovereignty (European Parliament, 2022). Both Parliament and Council passed the legislation without any significant amendments (Haeck, 2023a).

The effects of this construct result in different national contributions to semiconductor policy and production. The Netherlands focused on high-end research, development, and production, with late export controls. ASML had already developed into the world leader in extreme ultraviolet lithography used in the world's most advanced chips thanks supported by an ecosystem involving manufacturers, software developers, data centres, and cybersecurity specialists put in place and cultivated by the Dutch government. Export controls were accepted, though with a transition period allowing sales to China of equipment one generation old until September 2023 (Lin & Liu, 2023) and without involving the EU (Haeck, 2023b).

Germany, in contrast, remains divided across national bureaucracies and subnational governments on inward investment. The federal government introduced the right to ban Chinese involvement in critical telecoms, energy, and health infrastructure in 2021. It then blocked the Chinese takeover of chip manufacturer Elmos by Silex in 2022 on the grounds of protecting critical infrastructure (Rinke & Murray, 2022).

Chinese investment in Duisburg's shipping port also soured as German politicians linked China and Russia over Ukraine in 2022 (Kastner, 2023), but the chancellor himself allowed the Chinese shipping firm Cosco to buy the country's largest international port in his home city of Hamburg (Chazan et al., 2022). Meanwhile, German cybersecurity regulator BSI did not classify rail, including switches, routers, and associated software as critical infrastructure, allowing German rail company Deutsche Bahn to award Huawei a 5G infrastructure contract over the objections of the Green and Liberal (FDP) parties, both government coalition members and concerned about security risks (Marsh, 2023). The country's June 2023 Integrated Security Strategy further neglected chip development as a security issue (Federal Ministry of the Interior and Community, 2023). Nevertheless, a change to more restrictions is reported to be under debate (Marsh & Rinke, 2023; Pitel et al., 2023).

German chip production policy involves state governments and is decidedly industrial, ensuring domestic supply chains and keeping up with foreign performance in accordance with liberal policies, with increasing Waltzian concerns for self-sufficiency. Two states had attracted semiconductor production from US companies by 2023: Magdeburg (Intel; Hollinger & Waters, 2022; Mukherjee et al., 2022) and to Saarland (Wolfspeed), particularly directed at generating home-built capacity for electric vehicles and manufacturing. The German Chancellery touted the investments as proof Germany could compete with American subsidies in the Inflation Reduction Act regarding electric vehicles to support industry (Pitel, 2023).

Italy also secured an Intel chip assembly and packaging plant, again with a focus on relieving car production bottlenecks (Fonte & Piovaccari, 2022). Meanwhile, Intel negotiated cooperation with Spain's advanced Barcelona Supercomputing Centre for Advanced Computing, as well as labs in Poland and increased production in Ireland (Mukherjee et al., 2022). Overall, figures confirm that the bulk of investment is private and US in origin, with 88 billion over 10 years from Intel alone. This is both a success for the European plans, in terms of exceeding investment expectations, and a clear sign of transatlantic cooperation in chip production (friendshoring) rather than individual autonomy. The EU is following the US goal of recovering market share in chip production while inviting US companies to do the heavy lifting of investment and eventual production, while EU companies, many with state involvement, focus on high-end computing and chip production techniques that have no export restrictions to the US, but bar takeovers by US companies.

Italy also showed that the other side of chip and ICT infrastructure production is the issue of *protection from foreign takeovers*, with particular attention to countries outside the transatlantic allied space. Here we observe that Italy blocked the takeover of two semiconductor and high-tech component firms, one by a Chinese company,

and the other by a Hong Kong subsidiary of a US company in 2021, with the office of Prime Minister Draghi leading the charge (Fonte & Cao, 2021; Lanzavecchia, 2021).

Meanwhile, in France, the policy was markedly Waltian and statist. The state informed telecommunication companies in 2020 that if they selected Huawei equipment for 5G, they would be unable to renew their licences, effectively putting them out of business. The country's largest telecoms operator, Orange, in which the state owns a 23% share stake, subsequently awarded 5G infrastructure contracts to Nokia and Ericsson for its 5G networks throughout Europe rather than Huawei (Rosemain, 2022a). Domestic chip production for French companies (rather than reliance on Intel) was also secured when cooperation was announced between chip-maker STMicroelectronics (Franco-Swiss company) and wafer producer Soitec (France) for silicon carbide chips for the automobile industry in 2022 (Rosemain, 2022b). In addition, the French government supported projects in artificial intelligence and quantum computing. The Saclay technology cluster (Paris; Hollinger & Waters, 2022) related to French quantum computing projects (Cookson, 2022) was a key beneficiary and attracted a new research hub from Intel (Mukherjee et al., 2022).

Security issues under the veil of Waltian threat perception were also visible in French protection for cybersecurity and computing capacity. Before joining the Commission, Industry Minister Thierry Bréton had established a state-sponsored company known as Atos, which had a subsidiary called Evidian, specialised in computing and communications for the French security establishment, including cybersecurity, supercomputing, big data, and connectivity. Atos had fallen on hard times (Rosemain & Hummel, 2023), but the French government saw it as such an important strategic asset it shielded the company from a takeover bid from Thales, a French defence company with strong ties to the security ecosystem in France. Thales's plan was to acquire Atos' cybersecurity component BDS, furthering "sovereign big data and artificial intelligence platform for the public and private sector with a focus on defence, intelligence and internal state security" (Barbaglia, 2022) while allowing private equity firms to acquire the rest. The French state refused to countenance the sale to foreign entities as undermining the country's "digital sovereignty" (Barbaglia, 2022). It solved the conundrum by arranging for Airbus, a state-backed collaborative enterprise involving France, Germany, Spain, and the Netherlands, to take Evidian over. With this, the company's capacities remained at the disposal of the state, and for France's larger ambitions for a more independent European defence capacity (Donnelly, 2023b).

4.1. Expert Advice and Meagre Response on the ICT: Semiconductor–Cybersecurity Nexus

The EU's attention to chips, telecommunications, and cybersecurity has also evolved with a series of cyberse-

curity laws (Network and Information Security Directive, Cybersecurity Act) and the establishment and strengthening of the European Union Agency for Cybersecurity (ENISA). ENISA advises the EU on implementing and upgrading legislation, responding to new challenges, coordinates national authorities, and, since 2020, coordinates cybersecurity certifications for private enterprises. ENISA had flagged the importance of linking chip design, cybersecurity standards, and the EU's new General Digital Privacy Regulation as early as 2017 in consultations with leading producers ASML and NXP (Netherlands), STMicroelectronics (France), and Infineon (Germany, now a subsidiary of the US company Intel), as well as national cybersecurity authorities (ENISA, 2017). Doing so would have worked best with European production. The European Council endorsed ensuring the security and domestic production of microelectronics generally to multiple sectors of the economy, naming automotive, manufacturing, aerospace, space, defence, agriculture, and health care specifically on October 2, 2020 (Council of the European Union, 2020, para. 27; Negreiro, 2023).

However, even this liberal, supply chain focus on the interplay of cybersecurity and chips failed to generate an industrial policy response before the Chips Act. Gaps in the EU's thinking about protecting critical infrastructure remained as well, particularly in the EU's electricity grid that powers the devices being securitised. The European Telecommunications and Networks Operators Association together with the European Emergency Number Association expressed concern after the Russian invasion of Ukraine that electricity was not considered critical infrastructure throughout the EU, despite the fact that blackouts or shortages could crash the EU's telecoms critical infrastructure (Pollina et al., 2022).

4.2. Europe's Waltian Turn? The EU's Economic Security Strategy

Adherence to liberal and at times Waltian thinking yielded to the adoption of a Waltian lens of threat response in June 2023. The EU's Economic Security Strategy, in contrast to the EU Chips Act, is clear and unequivocal about the need to build up economic and technological capacity and to be selective in the EU's economic collaboration and interdependence due to security threats of a geopolitical, military, or non-agential nature. The Economic Security Strategy seeks to de-risk Europe's economic relations and boost its resilience, choosing to *promote* (NextGenerationEU, Chips Act, Critical Raw Materials, Net Zero Industry, and EU Industrial Strategy, targeted at resilience and sovereignty in energy, health, medicine, food, and defence), *protect*, and *partner* (with allies) to ensure critical industries while preserving "open and rules-based trade and investment, secure cross-border connectivity and collaboration on research and innovation" (European Commission, 2023b).

The Economic Security Strategy pays specific attention to ensuring supply chain resilience; ensuring

physical and cyber security of critical infrastructure, including communication networks (proposing a new Cyber Resilience Act and upgrade of the Network and Information Security Directive); ensuring technology security and preventing leakage of technology to hostile powers, including countering espionage, dual-use technologies, artificial intelligence, advanced semiconductors, and quantum computing; and potential for hostile powers to weaponise economic dependency against the EU and its member states (proposals for export controls pending). Most strikingly, *national security* is mentioned as being at risk, which the EU, its member states and private stakeholders should actively and collectively analyse and support. How Parliament and EU countries take up this Waltian turn remains to be seen. Debates are yet to be scheduled in the European Parliament, and heads of government have not yet responded.

5. Conclusions

This article gives an overview of the developments in the US and Europe regarding chip, computer, and communications technology strategy. It examines the extent, timing, and motivation of each side of the Atlantic regarding shifts away from open liberalism in economic interdependence and supply chains. Two alternatives are tested. The first is a shift to a Waltian focus on self-reliance and the balance of capabilities for reasons of national security and power resources broadly understood, even in the absence of a concrete military threat. The second is a Waltian threat response, in which efforts to build up domestic power resources are designed to mitigate a real or perceived security threat. It shows that in the US, the Trump administration started with a Waltian focus on relative capabilities, turning to narratives of potential Chinese security threats at the end of its term in office. In the Biden administration, there is clear and bipartisan agreement on building domestic chip manufacturing and infrastructure in response to a threat from China, as one of many challenges the US faces. This reflects a Waltian turn in US foreign policy that goes beyond what the previous administration conducted.

In the European case, the shift from liberal openness and interdependence in semiconductors, computers, and telecommunications to Waltian self-sufficiency and then Waltian threat response was highly contested until the summer of 2023. A concerted focus on chip development and manufacturing in response to supply chain disruptions, such as those that accompanied the Covid-19 pandemic, did not materialise until the US initiated its own programme in 2022, accelerating fears within Europe that they would be left behind as the US and China boosted their own capabilities, and more vulnerable to shortages without their own industrial policy and chip capacity to go with it. Industrial policy on domestic chip manufacturing and ICT infrastructure development based on Waltian calculations is the new common ground between EU institutions and key mem-

ber states. It is reflected in the primary focus on industrial chips for automobiles, consumer electronics and other internet-of-things products and services.

The Commission's European Economic Security strategy demonstrates that in 2023 it adopted a Waltian notion of a concrete threat demanding self-sufficiency and resilience, such as a Chinese attack on Taiwan and its semiconductor manufacturing, Chinese advances in military technology that could be used to undermine Europe's security, or the persistent threat of Russian aggression and destabilisation, layered on top of earlier concerns for addressing supply chain disruptions. Within the new strategy, the supply chain question shifts from disruptions to vulnerability to attack, with the risk depending on whether the countries supplying are allies or not, broadly understood (Genschel & Schimmelfennig, 2022). These Waltian threat-induced reactions build on Waltian intellectual priors about strategic autonomy, which were both generalised in terms of threat (building up European resources and policies to keep up with the US and China) and much more weakly supported by the member states in Council, with France pushing strongly for strategic autonomy and Germany and others remaining unconvinced. Kelemen and McNamara (2022) place the phenomenon of EU securitisation in a broader literature on state-building during wartime, which intensifies urgency in agreement, policy response, and even committed financial resources.

Differences between Europe and the US have meaningful consequences, given the US's hard stance on independence and relations with China in chips and ICT infrastructure, and its demands on Europe to align its policies with its own. European positions are slower and weaker, given the weaker powers of the EU vis-à-vis the member states in foreign policy and more meagre resources, but more crucially, a split in foreign policy stances of EU member states. Germany is reluctant to abandon liberalism and interdependence. Member states geographically closest to Russia along with France support a threat-based response of industrial policy for European security. The Commission occupies the middle, reflecting traditional concerns to build up European independence for its own sake: as either strategic autonomy (full independence) or open strategic autonomy (friendshoring). While Commission recommendations to screen investment in 5G infrastructure, related technology firms, and build chip manufacturing companies resonate well in France, these have had a lesser impact in Germany, for example.

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Conflict of Interests

The author declares no conflict of interests.

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About the Author



Shawn Donnelly (University of Twente and Leiden University) is the author of *Reshaping Economic and Monetary Union* (Manchester University Press), *The Regimes of European Integration* (Oxford University Press), *Power Politics, Banking Union and EMU* (Routledge), and *European Banking Nationalism* (Routledge). He specialises in American and European economic strategy, industrial policy, and financial markets.

Article

Legitimisation of Foreign Direct Investment Screening Among Business Actors: The Danish Case

Anna Vlasiuk Nibe

Department of Political Science and Public Management, University of Southern Denmark, Denmark; vlasuik@sam.sdu.dk

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Abstract

There has been a conspicuous shift in the European Union's perception of economic interdependence and open markets, manifested in a mushrooming number of screening policies aimed at verifying foreign direct investments raising national security concerns. The introduction of these policies can be viewed as a market constraint that might negatively affect business operations, so it is puzzling that some European business actors did not actively resist their adoption, despite having wide lobbying opportunities in Europe. I explore this puzzle using the case of Denmark by drawing on theories of securitisation and preference formation under uncertainty. I argue that business actors established their policy preferences in the context of uncertainty and the gradual increase in security framing by the European and local political elites. Exposed to these increasing security discourses across different levels and networks, businesses adjusted their policy preferences, balancing between different identities. The flexibility inherent in a multilevel and evolving securitisation process led to the legitimisation of investment screening policies among interest groups and mitigated their resistance to the imposition of market constraints on security grounds.

Keywords

business interest; foreign direct investment; investment screening; securitisation

Issue

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1. Introduction

In June 2023, the European Commission presented its new Economic Security Strategy based on three key pillars: promoting the competitiveness of the EU to increase economic resilience, protecting the EU from economic security risks, and partnering with countries who share the EU “concerns on economic security,” thereby ensuring “a more resilient and secure economy” (European Commission, 2023, p. 3). This strategy reflects a conspicuous shift in the EU's perception of globalisation, economic interdependence, and open markets. Since the creation of European Communities in 1950s, European leaders worked to establish a liberal economic order based on the idea that economic interdependence both decreases the likelihood of war and increases economic well-being (Bauerle Danzman & Meunier, 2021; De Ville & Siles-Brügge, 2018; Lenihan, 2018; Linsi, 2016),

leading to an explosion of transnational business activity and complex cross-border corporate structures (Baldwin & Venables, 2013; Davies & Markusen, 2021). However, the geopolitical turbulences of the previous decade have led to a reconsideration of this “naiveté” in European commercial policies. One of the earliest manifestations of this shift was the introduction of investment screening policies that permit governments to verify, ban, or condition foreign direct investment (FDI) that potentially threatens national security or public order.

The EU adopted its pan-European Investment Screening Framework (ISF) in 2019, which provides the Commission with advisory competencies, while the member states maintain the decision power to veto proposed FDIs (Regulation of the European Parliament and of the Council of 19 March 2019, 2019). The adoption of this EU ISF led to a proliferation of investment screening mechanisms (ISMs) across member states.

The introduction of investment screening policies can potentially affect business operations. In the short term, they impose material costs and add a regulatory burden; in the long term, they restrict firms' access to alternative investment finance, increase uncertainty, and likely influence business investment decisions (Bauerle Danzman, 2019; Bauerle Danzman & Meunier, 2021; Graham & Marchick, 2006; Wernicke, 2021). Despite these potential negative effects on business activities, the adoption of European screening policies did not seem to face any significant visible resistance from business actors (Schild, 2022; Vlasjuk Nibe et al., 2023; Wernicke, 2021). This is especially puzzling given that business organisations enjoy a favourable environment for lobbying activities in Europe (Dialer & Richter, 2019; Greenwood, 2019) and, thus, allegedly possess wide opportunities to promote their interests. The openness to investment screening expressed by some of the most influential European business interest groups (BusinessEurope, 2018) suggests that the FDI screening policy might have been legitimised among traditionally liberal-minded policy stakeholders. Denmark, in particular, is an interesting case in the European political landscape of liberal actors, because it experienced a radical U-turn in its previous policy with the adoption of its "first ever" cross-sectoral FDI screening legislation in 2021 (Mattlin & Rajavuori, 2023). Given this, the research question posed by this study is whether and how investment screening policies were legitimised among Danish business actors.

Denmark, a long-standing advocate for open markets, was initially sceptical about the idea of FDI screening (Vlasjuk Nibe et al., 2023). However, Denmark not only adopted its own ISM in 2021, but several commentators have suggested that the screening rules are among the most robust in Europe (Danish Business Authority, 2022; Mattlin & Rajavuori, 2023). I draw on the theories of securitisation and preference formation under uncertainty. Theoretically, I follow a dynamic approach to securitisation where the business "audience" is taking part in shaping a perception of "threat" and adjusts its policy stances depending on social mechanisms. Empirically, I show how the necessity of FDI screening has been gradually accepted in liberal-minded Denmark, thus shedding light on possible mechanisms for such acceptance in other liberal member states.

My argument is that businesses shaped their ISM policy preferences in the context of uncertainty and the gradual increase in security framing by European and local political elites. Being exposed to these increasing security discourses across different levels and networks, businesses adjusted their preferences balancing between different identities. The flexibility inherent in a multilevel securitisation process led to the legitimisation of investment screening policies among business groups and mitigated their resistance to the imposition of market constraints on security grounds.

I begin with an overview of the literature on evolving FDI screening practices. I then summarise the analyti-

cal tools used for this study before presenting the empirical findings, followed by a discussion of their theoretical implications. I conclude by summarising the main argument and reflecting upon the significance of the emerging geoeconomic reality for business more broadly.

2. Explaining Investment Screening: Do Businesses Play a Role?

A wide range of studies explain why states choose to open economic borders or impose market restrictions. In the light of decades of economic liberalisation, the existing research often looks at commercial policies as a product of cooperation between policymakers and businesses, where governments offer firms access to policy-making in exchange for expertise and support (Dialer & Richter, 2019; Greenwood, 2019; Keller, 2018; Morgan & Ibsen, 2021). Whether such policies result from heavy lobbying and reflect clear business interests (Bauerle Danzman, 2019; Keller, 2018; Young, 2016) or business interests being shaped by governments themselves (Roederer-Rynning et al., 2020; Woll, 2008), the common understanding is that an overall consensus among policymakers and economic interest groups is needed for a policy to be adopted. With regard to FDI regulation, the literature tells us that local business actors tend to (a) push for the restriction of foreign entry to avoid competition and increased labour costs, (b) favour more liberal FDI policies to gain access to foreign technologies or investment financing (Bauerle Danzman, 2019), (c) define their investment policy interests depending on market orientation and structural position (Schneider, 2023), and/or (d) influence concrete investment transactions to advance their commercial interests (Graham & Marchick, 2006). Against this widely accepted perception that domestic firms have clear interests and a strong influence over the outcomes of commercial policies, other scholars emphasise that business actors act reactively under uncertainty and that their interests are shaped depending on institutional and social contexts (Roederer-Rynning et al., 2020; Woll, 2008). Overall, the literature agrees that Western economies have developed under the dominant ideas of open markets and free trade, with business actors playing an important role in this development (Blyth, 2002; De Ville & Siles-Brügge, 2018; Linsi, 2016; Woll, 2010).

However, in the recent decade, researchers have been puzzled by the changing perception of FDI among Western leaders manifested in the widespread adoption or strengthening of FDI screening policies (Bauerle Danzman & Meunier, 2021; Lenihan, 2018). While the scope and extent of investment screenings across advanced economies vary, scholars emphasise common patterns in the proliferation of ISMs, including a broadening of the scope of sector coverage and a lowering of ownership and transaction size thresholds (Bauerle Danzman & Meunier, 2021). There is some debate on the driving forces behind such policies: Some researchers

emphasise the role of the wider public and trade unions (Canes-Wrone et al., 2020) or states' own intentions to secure their power in a peaceful way (Lenihan, 2018), others show how restrictive policies are used by policy-makers to win voters or strengthen authorities (Kang, 1997; Schill, 2019), and still others point to the importance of a perception of "risk" in shaping FDI policymaking (Mattlin & Rajavuori, 2023). In sum, FDI policy studies (a) demonstrate an overwhelming shift in global trends, where the Western world is moving from liberal to restrictive FDI politics; (b) suggest that this shift reflects changing global ideas; and (c) emphasise a complex nature of economic, social, and political reasons affecting government' courses in FDI policymaking.

The problem with these existing explanations is that they have little to say about the role of business actors in emerging FDI regimes, although they assume that businesses might have an interest of their own in this policy domain. Some suggest that governments choose to restrict FDI against the interests of companies, arguing that neither business preferences nor economic competition play a significant role in explaining states' behaviour (Lenihan, 2018). Some scholars mention that businesses can engage in politicising screening processes to advance their commercial interests (Graham & Marchick, 2006). Some say that business actors do not take proactive measures and seem to be uninfluential in bringing about these policies despite some pronouncements against growing interventionism (Bauerle Danzman & Meunier, 2021; Kang, 1997), particularly from firms oriented towards Chinese markets (Schneider, 2023). Some even argue that businesses may be quite open to screening regulations as they allegedly share their goals (Wernicke, 2021) and that some business groups have experienced "ideological reorientation" towards China (Schneider, 2023). Despite these important insights, existing research falls short of explaining how business actors perceive investment screening policies, whether and how they engage with policymakers in their development, and if not, then why? Moreover, researchers recognise this gap and call for more knowledge about the role of companies in shaping international investment policy and particularly screening regulations (Basedow, 2019; Bauerle Danzman & Meunier, 2021).

This study takes a first step in addressing this gap by examining the adoption of investment screening policy in one of the most liberal-minded European countries in the context of a wider regulatory reform in the EU. Existing research tells us that the Danish ISM is a result of changed risk perceptions on Chinese FDI among political elites (Mattlin & Rajavuori, 2023), yet we know little whether economic actors—whose support is allegedly needed in commercial policymaking—share these risk perceptions and what role they played in the policy adoption. It is time to discover business policy stances on ISM as well as their interactions with policymakers on this matter.

3. Analytical Tools and Method

The study has been conducted via an abductive approach, starting with exploring the literature in fall 2021 and followed by a "pre-study" with a series of interviews in early 2022. In mid-2022 and early 2023, I moved back and forth between exploring possible theoretical explanations, conducting interviews, and document analysis. As a result, the choice of theory was "data-driven" and emerged in the continuous process of moving back and forth between data collection and theorising (Tavory & Timmermans, 2014).

Existing research often explains business policy stances in investment regulation based on rational choice models (Bauerle Danzman, 2019; Schneider, 2023), where businesses are deemed rational actors with clear "exogenously given" interests. These models are based on a materialist understanding of business "rationality," linked to welfare maximisation, and are well suited to explain economic actors' behaviour in situations of institutional stability and well-functioning markets. However, they often fall short of explaining business behaviour in more complex and uncertain situations, where firms' behaviour does not follow the "rational" economic self-interest predicted by the rational choice models (Blyth, 2002; Campbell, 2004; Roederer-Rynning et al., 2020; Woll, 2008). To explain economic actors' behaviour in the context of complex and uncertain situations, some scholars turn to the social constructivist paradigm, which highlights the role of ideas and discourses, as well as identities and social norms in shaping agents' behaviour. To account for the seemingly "irrational" behaviour of market actors, constructivist scholars do not necessarily claim that firms act against their "basic" economic self-interest; instead, they suggest that "rationality" is constructed in the given institutional and social context, which influences agents' perceptions on themselves, their interests and policy preferences (Abdelal et al., 2010; Roederer-Rynning et al., 2020; Woll, 2008).

Given that the data on the development of the Danish ISM in a complex multilevel setting comprises a variety of policy ideas, actors, and existing conventions, and against the background of growing geopolitical tensions, I relied on the social constructivist paradigm, which seems to be more helpful in understanding businesses' policy stances in such a compound setting. Particularly, I aim to bridge insights between the constructivist framework of "Knightian" uncertainty and securitisation theory. While the theoretical path of uncertainty is an established and recognised approach in international political economy literature and can be helpful in understanding market actors' behaviour in commercial policymaking (Abdelal et al., 2010; Woll, 2008), it might not be sufficient to account for compound policymaking where commercial and security policies merge. The theory of securitisation (Emerson, 2019), which attempts to explain why certain phenomena become accepted as threats, can offer valuable

insights into how new security discourses can enter the commercial policy domain and how they can be accepted and/or modulated by market actors.

While acknowledging that “business” is not a homogeneous group of actors (Boräng & Naurin, 2015; Schneider, 2023), for analytical purposes I use a “generalised perception” with respect to their policy stances. First, the analytical choice is dictated by the research question, which focuses on determining whether there were common patterns in accepting the introduction of security-motivated investment screening among diverse business groups. Second, this choice seems possible due to the structure of the Danish economy dominated by the service sector (O’Neill, 2023) and labelled as a “research and development hub” in the European map of FDI attraction profiles (Reurink & Garcia-Bernardo, 2021). This suggests a relative level of “homogeneity” in the business community and allows for analytical generalisation. Moreover, this choice also follows the data gathered across the most influential business organisations in Denmark that unite a large variety of companies across size and industry and that represented these companies in the policy negotiations based on a “funnelled” common policy position. The data suggest that, regarding FDI screening policy, these business organisations shared common grounds.

3.1. Policy Stances Under Uncertainty

“Uncertainty” is an important concept in explaining economic actors’ behaviour, yet there are different understandings of this concept in the literature. Generally, we can distinguish between “probabilistic” and “genuine”—or “Knightian”—uncertainty. The former refers to situations in which economic actors are capable of assigning probabilities to potential outcomes as well as rationally calculating costs and benefits in relation to an anticipated event, often drawing on information from past behaviour. The latter, on the other hand, relates to situations when an outcome is perceived as unique, actors lack information about “means and ends,” and thus are not able to assign probabilities to outcomes to rationally “calculate” their interest (Abdelal et al., 2010; Blyth, 2002; Woll, 2008). As a result, when the future is unknown and there is no past experience to rely upon, actors make sense of their self-interest through social interactions relying on social mechanisms (networks, institutions, identities, and beliefs). Business policy preferences, in turn, are informed by the identities, i.e., role-specific translation of the self-interest (e.g., a “national champion” or a “competitive player”) and context-dependant beliefs on how to achieve this interest via public measures (Woll, 2007, 2008). The concept of “Knightian uncertainty” can help clarify business incentives in the context of a regulatory U-turn where there is no experience in cross-sectoral investment screening.

Chronologically, when facing uncertainty in the form of regulatory reform, businesses undergo a sequence of

phases. In the early stage, firms are typically confused because they have little understanding of the nature and consequences of the policy. Thus, they tend to cooperate with institutional actors and each other to gain and assess the relevant information. During the next phase, businesses need to decide on an action plan, where some will choose to mobilise, while others will remain silent or even lobby against the reform. However, in the process of social interactions, businesses gradually accept the strategic change to be introduced into the market and adjust their preferences according to institutional, social, and normative context, where their interests and identities can be changed or modulated (Woll, 2010).

3.2. Securitisation

Securitisation theory focuses on the discursive strategies of a state in its attempts to turn a policy issue into a security problem, highlighting the performative effects of security discourse. It was originally developed by the Copenhagen School based on the key concepts of the “speech act” (a performative act by the “securitiser” framing a political issue as a “threat”), the “securitiser” (typically, a “state”), and the “audience” (a group of policy stakeholders targeted to “accept” the threat; Buzan & Wæver, 1997; Buzan et al., 1998).

Though the theory has been criticised (Anthony et al., 2006; Booth, 1991; Corry, 2012; Hansen, 2000; Salter, 2008), it offered important insights into our understanding of “security” fostering further analytical developments and academic debates. Today, securitisation theory has a variety of schools (Wæver, 2012) and approaches (Carrapico, 2014) and serves as a “fruitful approach” to explain a broad variety of issues from environment and health to cyber-security and interstate rivalries, thus, gaining relevance in a “growing number of political contexts” (Balzacq et al., 2016, p. 507). This study takes the securitisation theory further to probe its explanatory capacity in the field of FDI regulation.

I follow the so-called process-oriented approach to securitisation, which, drawing on the original conceptual “trinity” suggested by the Copenhagen School (securitiser, speech act, audience), expands the analytical toolkit by seeing securitisation as a “process” rather than a single act (Emerson, 2019). This process-oriented approach reconceptualises the “speech act” as a “securitising move” which is “constructed over time through a range of incremental processes and representations” (McDonald, 2008, p. 564). Further, it expands the view of a securitiser seeing this actor as being shaped in the course of securitising move rather than being a fixed rigid subject, and of an audience, which participates in shaping the perception of “threats” rather than passively accepting it (Emerson, 2019).

For analytical purposes, I use the process-oriented approach to securitisation as an epistemological framework. The underlying ontology of this study is a wider constructivist perception of the context-dependent

nature of various policy stances. In other words, I use the theoretical account as a heuristic instrument to build up the best possible explanation of a particular outcome (Beach & Pedersen, 2013).

The process-oriented approach (Emerson, 2019) to securitisation offers a chronology of securitisation as follows. *Before* the securitising move, securitisation is shaped by conventionality, that is, the ideas, beliefs, and expectations of the “audience,” which is thus involved in the identification of the threat. *During* the securitising move, the “securitiser” moves from the undefined content of security to formulating the particular decision. *After* the utterance, securitisation is the mobilisation of the audience, which concerns the audience’s “investment” in the social field and practices (Emerson, 2019).

3.3. Summing up: Business Policy Stances in the Context of Securitisation

The two suggested approaches “speak well” to each other in several ways. First, they both look at cooperation between policymakers and policy stakeholders and the co-creation of new “cognitive categories” in the context of policymaking. Second, both approaches highlight the importance of the ideational background that actors rely upon when interpreting the situation. Finally, both approaches see business actors—or the “audience”—as participants in a dialogue rather than passive actors accepting the logic of the states’ framing or powerful lobbyists pushing for their interest.

While sharing these conceptual similarities, these theories can complement each other. Securitisation theory allows us to explain the emergence of the concept of “threat” that justifies market restrictions by looking at the process of states’ utterances on emerging security issues and the modulation of business “audiences” by drawing on existing ideational conventions. Interest formation theory, on the other hand, can help explain how businesses make meaning of new discourses and shape their policy preferences in a new political and regulatory reality.

To sum up, in the context of this study, I treat businesses as an “audience” whose policy preferences are shaped in the context of securitisation. I take the chronology of securitisation as the basic framework for analysis and trace how business policy stances crystallise at each stage of the process.

Before the securitising move, states try to formulate a security threat while considering existing conventionality. For businesses, this is shaped by the institutional setting (e.g., an open economy), identities (e.g., liberal profit-makers), and resulting expectations (e.g., keeping markets open). The indication of potential regulatory reforms creates uncertainty and forces businesses to learn about its nature through social interactions.

During the securitising move, the states use discourses to formulate their vision of a “threat” and present policy ideas on how to address it. For business,

this stage involves making meaning over new categories and deciding on the plan of action based on their beliefs and identities.

After the utterance, states seek to mobilise the business “audience” to support the securitising move. Businesses tend to invest in the “co-creation” of and “self-modulation” in the new reality by making meaning of the new policies and by exercising practices on their implementation and evaluation.

3.4. Methodological Considerations

I rely on a qualitative methodology, with process tracing as the main method. I follow Beach and Pedersen (2013), who distinguish between theory testing, theory building, and explaining outcome process tracing based on the purposes of a study, as well as on the distinctive ontological and epistemological premises underlying it (Beach & Pedersen, 2013). Following this distinction, I conduct the “explaining outcome” process tracing, which aligns with the constructivist ontological premise of the article, the explanatory nature of the study, and the abductive way of conducting the research. I trace the development of the Danish ISM to identify the key constitutive stages of this process and explore the evolution of business FDI perception and ISM policy preferences across time (from early debates to implementation) and space (from European to Danish levels). My data sources include policy documents related to the development of the EU and Danish investment screening legislation, media reports, business–government correspondence, and 13 extensive elite semi-structured interviews with representatives of EU and Danish institutions and business groups (for the interviews summary, see Table 1).

4. Findings

Below I present the findings on the gradual acceptance of FDI as a “threat” by business actors and their respective policy preferences placed in the context of policy development. The process is traced from early debates on European investment screening until the first attempts to evaluate the implementation of Danish ISM at the time of writing (see Figure 1). The sequential approach chosen to present the findings demonstrates how business policy stances developed over time in the context of evolving security discourses across different political levels.

4.1. Emergence of the Debate: “Free Traders” Against “Protectionists” (2010–2017)

4.1.1. Policy Development Context

The EU experienced two waves of discussion on the necessity to screen FDI (in the early 2010s and 2016–2017), both triggered by unusually high bids from Chinese investors aiming to acquire European tech companies. In the 2010s, the Commission put an end to

Table 1. Interviews summary.

| Code | Date | Length (hours) | Affiliation |
|----------|------------|----------------|----------------------------------------|
| 1BA1S1 | 06.01.2022 | 1 | Business association |
| 3EPM1 | 07.01.2022 | 1 | European Parliament |
| 4BA2S1 | 07.01.2022 | 1 | Business association |
| 6BA3EUI | 18.01.2022 | 1 | Business association |
| 7COM2DGT | 20.01.2022 | 1.5 | European Commission (two officials) |
| 8EPM1 | 27.01.2022 | 1 | European Parliament |
| 9ORG1S1 | 28.01.2022 | 1 | Ministry |
| 12PR1S1 | 17.01.2023 | 2 | Governmental authority (two officials) |
| 14ORG1S1 | 18.01.2023 | 1 | Ministry |
| 17BA1S1 | 19.01.2023 | 1 | Business association |
| 19BA2S1 | 07.02.2023 | 1 | Business association |

the debate, seeing such policies as protectionist. Later, in 2017, following the call of France, Germany, and Italy to propose pan-European FDI screening legislation, the Commission submitted its proposal on the EU ISF. At the dawn of this policy development, the majority of European policymakers and stakeholders were sceptical about the idea of FDI screening in Europe for various reasons from traditional ideological adherence to “open markets” to an unwillingness to jeopardise FDI flows from China (Vlasiuk Nibe et al., 2023).

At the time of submission of the proposal, the security aspects of FDI in Denmark were addressed by a limited regulation focused on a narrow area of warfare equipment and the energy and climate aspects of the continental shelf (“Investment Screening Act introduced in the Danish Parliament,” 2021). Moreover, Denmark

entered the European debate with little enthusiasm towards FDI screening: Being dependant on foreign markets and global trade, Denmark belonged to the “free traders” camp of member states who advocated for open markets and facilitation of FDIs, which included the UK, Netherlands, Sweden, Finland, and occasionally, Baltic states (Interviews 1BA1S1, 4BA2S1, 9ORG1S1, 14ORG1S1, 17BA1S1, 19BA2S1). Back in 2016–2017, the Danish liberal-minded position was even more pronounced with liberal government at the wheel (Interviews 9ORG1S1).

4.1.2. Business Position

At this stage—“before the securitising move”—the position of Danish businesses on FDI screening was aligned

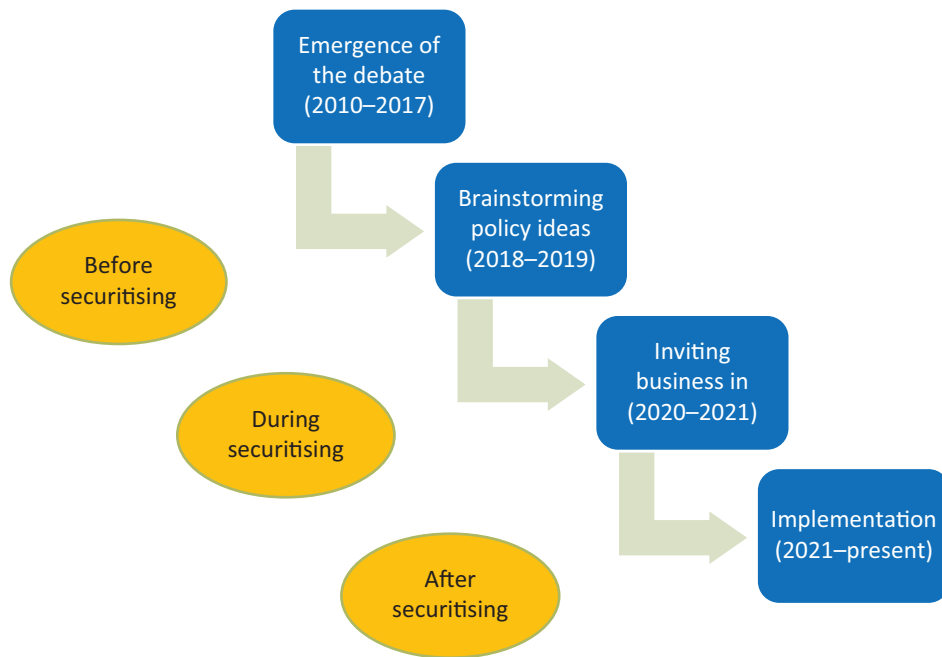


Figure 1. Development of Danish ISM: Key stages.

with the position of the Danish state and was shaped by “existing conventions” in several ways. First, both Danish business and the government perceived Denmark as an open and modern economy dependent on FDI to secure welfare and economic growth. Thus, the idea of market constraints was understood negatively, as potentially harmful for the Danish economy and “not in the interest” of local business. Second, the idea of investment screening was seen as “another” attempt to promote protectionism pushed by the “traditional” proponents of protectionist policies such as France and Italy. Finally, the belief of the necessity of keeping markets open was shared across businesses identifying themselves with member states from the “free traders” camp—the “Northern alliance”—against the protectionist “others” (Interviews 1BA1S1, 4BA2S1, 9ORG1S1, 17BA1S1, 19BA2S1).

4.2. To Screen or not to Screen? Brainstorming Policy Ideas (2018–2019)

4.2.1. Policy Development Context

The EU ISF proposal was submitted in September 2017 with no impact assessment, yet it was followed by a three-month public consultation held until December 2017. The consultation resulted in only three official responses from business organisations, yet fewer business position papers addressing FDI screening were published in the following years. During policy negotiations in 2018, the Commission organised an outreach campaign involving a variety of interest groups. First, the campaign aimed to explain and clarify the upcoming regulation to policy stakeholders. Second, the Commission tried to gain stakeholders’ support in light of the potential political contestation around the policy proposal. To ensure that business organisations were open to the EU ISF, the Commission particularly advocated for a limited security-oriented screening, confidentiality commitments, tight deadlines, and minimum administrative burden for EU-level filing. While navigating between different actors with various interests, the Commission pursued “light-touch” EU-level regulation, serving as the lowest common denominator for the diverse landscape of EU policymakers and stakeholders (Vlasiuk Nibe et al., 2023).

After a rapid negotiation process in 2018, the EU ISF was adopted in the first reading in March 2019 in a record-short period of 18 months. The legislation aimed to enter into force in October 2020, which coincided with the outbreak of the Covid-19 pandemic. The pandemic raised concerns about supply chains, vulnerabilities in critical infrastructure, and national security, leading the Commission to call upon member states “to set up a fully-fledged screening mechanism” to address potential security risks posed by acquisition or control by a foreign investor of “a particular business, infrastructure or technology” (European Commission, 2020).

In Denmark, a working group entitled to develop a legislative proposal on ISM was established in April 2018, comprised of the Ministry of Justice, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Industry, Business, and Financial Affairs, Ministry of Defence, and Ministry of Climate, Energy, and Utilities (Erhvervsministeriet, 2020; Interview 9ORG1S1). It faced the hard task of developing brand-new legislation with very few ideas on the matter and, thus, organised a two-stage process to learn from the existing screening systems. The first “desktop investigation” stage (Spring–Summer 2018) included a broad examination of the existing screening systems in other states, which were then narrowed down to six: Finland, France, Norway, Germany, the UK, and the US. During the second “in-depth exploration” phase (Autumn 2018–Summer 2019), the working group conducted an in-depth investigation of the chosen ISMs, which included meeting foreign colleagues from respective countries in Denmark and abroad (Interviews 9ORG1S1, 14ORG1S1). From the summer of 2019 until the end of the year, the group summarised and assessed its study. In early 2020, it was ready to present its ideas to stakeholders.

4.2.2. Wider Context: China and “Huawei Storm”

The development of Danish ISM occurred against a wider China-related (cyber)security discussion, which emerged from concerns over Huawei—the biggest provider of telecom equipment in Europe of Chinese origin—and its alleged collaboration with the Chinese government (Cerulus, 2020; Karner, 2020a, 2020b; Kruse & Winther, 2019; Patey, 2019). Since 2013, Huawei has acted as a provider of telecom equipment for the Danish operator TDC, raising the concerns of politicians and security experts (Patey, 2019). In 2019, TDC chose the Swedish telecom operator Ericsson over Huawei, although it claimed that this was a commercially motivated decision (Strand, 2019). In late 2019, Huawei reportedly asked the Danish prime minister for “clear answers” on whether they were still “welcome to participate” in Denmark’s 5G rollout and whether same security measures would be applied to all telecom equipment providers (Cerulus, 2020; Kruse & Winther, 2019). These questions came in a row of a diplomatic storm between China and Denmark, where Chinese ambassador was reported to threaten Faroe Islands, an autonomous Danish territory, to cancel a trade deal between them and China should they choose not to secure the contracts on Huawei 5G (Cerulus, 2020; Kruse & Winther, 2019). The discussions of ISM and the “Huawei storm” overlapped in time and reinforced each other. In December 2019, the Danish parliament expressed the need for the establishment of the ISM to verify FDIs for possible security risks (Erhvervsministeriet, 2020). In early 2020, Danish Prime Minister Mette Frederiksen said in a “decisive” interview that Denmark was working on the legislation to make sure “suppliers...cannot via 5G networks work against Danish security policy interests” and that the

government was also working on legislation to screen potentially dangerous FDI (Mouritzen, 2020).

4.2.3. Business Position

This stage can be characterised as the transition between “before” and “during” the securitising move. The draft legislation on screening FDI had been submitted at the EU level, yet it was uncertain how this would materialise in Denmark. The emerging debates on China and its influence on economic actors indicated increasing attempts from European political elites to formulate the perception of a “security threat” in the commercial policy domain, yet such perceptions differed across member states. Denmark was about to shape a meaning of its own.

In 2017, Danish business groups—similar to previous debates—saw the idea of FDI screening as yet another protectionist move by industrialised countries. However, since the Commission’s proposal left the key decision power within member states, Danish businesses—drawing on shared liberal-minded views with the government—expected to influence the upcoming legislation (Interviews 4BA2S1, 17BA1S1).

In early 2018, Danish policymakers started preparatory work but had little understanding of what the Danish ISM should look like, which created uncertainty for Danish market actors, especially given that there was no previous history of cross-sectoral investment screening in Denmark. The EU-level legislation development, on the other hand, was on the run, and Danish business organisations turned to EU-level policymakers and stakeholders to gain clarity about the new categories of “security threat” entering the commercial policy domain. In Brussels, Danish business groups engaged in a “good dialogue” with European colleagues and the Commission. For Danish business, these early discussions were centred around protectionist rather than security aspects, and they felt jeopardised by a potential protectionist turn in the EU, especially in the light of the upcoming departure of the UK with the “free traders” camp getting smaller and less influential (Interview 1BA1S1). To cope with the increasing uncertainty, businesses mostly tried to clarify the proposed category of “threat” and advocated against economic criteria and reciprocity as grounds for FDI screening, which “we in Nordic countries” saw as “a French word for protectionism” (Interview 4BA2S1).

Later in 2018, and to the beginning of 2019, the discourse around Chinese strategic investments for “non-economic” reasons became stronger and increasingly spread from European political to business domains. The focus of the discussion gradually shifted from economics and protectionism to the security and strategic aspects of potential screening policies. With the heightened political discourses around China and its strategic investments, business groups began reconsidering existing perceptions of Chinese FDIs, embracing a new cate-

gory of “threat” in FDI regulation and gradually accepting the idea of upcoming investment screening (Interviews 4BA2S1, 17BA1S1). In early 2019, powerful German interest groups declared a change of views on China by acknowledging that China might pursue trade and investment for strategic rather than economic reasons (Federation of German Industries, 2019). This “tipped the mood” of the wider—including the Danish—business community and led to the “acknowledgement that we need to react” (Interview 4BA2S1).

Later in 2019, the “Huawei storm” reinforced perceptions of China as a geopolitical rival and the necessity to use caution in economic relations in strategic sectors. The discourses merged: European and local, geoeconomic and cyber security. The new social-democratic government that took the wheel after the 2019 parliamentary elections might have also contributed to a less “liberal” policy orientation. Last but not least, the “corona crisis” contributed to a broader understanding of “critical infrastructure” in Denmark (Mouritzen, 2020). With the increasing discourses on Chinese control of strategic sectors spread across political and media spaces, and in the light of the economic and strategic vulnerabilities revealed at the height of the Covid-19 pandemic, arguably, Danish society experienced a “paradigmatic shift” in its perception of “threats” (Interview 9ORG1S1).

4.3. Prepare for Screening: Inviting Business in (2020–2021)

4.3.1. Policy Development Context

In March 2020, the working group invited the business community to discuss policy ideas on the Danish ISM. The group introduced stakeholders to the topic of investment screening and the reasoning behind its adoption, raised several questions, and presented its comparative study of different screening systems (Erhvervsministeriet, 2020). Business groups responded with their comments. In addition, the working group organised joint meetings and consultations with interest groups “behind closed doors” between March and October 2020 (Interviews 1BA1S1, 4BA2S1, 14ORG1S1, 17BA1S1, 19BA2S1).

In October 2020, the working group presented three possible screening schemes to the government (Erhvervsudvalget, 2020), where a mandatory sector-specific screening supplemented with a voluntary cross-sectoral notification mechanism was chosen “based on the criteria of effectiveness and predictability” (Interview 14ORG1S1). On December 9, 2020, the draft Investment Screening Act was submitted for consultation, where 115 stakeholders were invited to send their feedback. In total, there were 11 official policy feedbacks, followed by comments from the Ministry of Business (Erhvervsministeriet, 2021). The draft law was proposed to the parliament in March and adopted in May 2021.

4.3.2. Business Position

The invitation of business groups to the debate in March 2020 can be seen as a key event of the “securitising move” in Denmark: The stakeholders were clearly presented with the reasoning behind the policy and were invited to participate in the discussion. Arguably, the goal was to let business “invest” in the co-production of new categories and policy ideas and prepare the conditions for having business “on board” upon the submission of the legislation draft. The further publication of the policy proposal for official consultation can be seen as the beginning of the “after utterance” stage, attempting to mobilise business groups around the policy adoption drawing on the previous discussion.

By the time of the invitation, the idea that FDI could potentially pose a security threat and that ISM was necessary to address it, was *generally legitimised* among Danish economic groups, who embraced a two-fold perception of FDI-related “threat.” The first aspect included a narrow understanding of specific sectors deemed vital for the functioning of society, such as critical infrastructure or strategic technologies. The second aspect related to FDI coming from “non-friendly” countries, primarily at that time from China (Interviews 17BA1S1, 19BA2S1). These views were reflected in the business feedback to the consultation where they advocated, among other things, for the narrowing down of sector coverage, excluding FDIs from OECD, EFTA, and EU countries, as well as financial agreements from the review, and lowering shareholding thresholds (Erhvervsministeriet, 2021).

The working group had a broader vision of a “threat” yet represented a fragmented “triangle” of interests. At the first “angle” was the Ministry of Industry, Business, and Financial Affairs represented by the ministerial Business Authority, which is reported to have been “business focused.” At the “second” angle was the Ministry of Foreign Affairs, which accordingly focused on the foreign relations aspects of the law. The third “angle” was taken by the Ministries of Justice and Defence and, reportedly, a representative of the Prime Minister’s Office, which was “security-focused” (Interview 19BA2S1).

Businesses noted that the Business Authority was generally responsive to their feedback. However, the interest representation did not seem to be “balanced”: First, the security-related pressure was “hard,” reflecting bi-partisan consensus among political elites; second, there was almost no direct communication between interest groups and the security-oriented “angle” of the group. As a result, businesses lacked proper argumentation and saw some security-motivated provisions as being poorly justified. The broad Danish ISM was especially contrasting the “soft” EU-level regulation, which promised more freedom to Denmark to shape its own policy and did not meet business expectations for a “liberal-oriented” (i.e., narrow) ISM (Interviews 4BA2S1, 17BA1S1, 19BA2S1).

Partly, business comments were accepted by the legislators. The perception of “threat” was narrowed down and the legal uncertainty on implementation practices was reduced. For instance, special financial agreements where an investor’s final origin is an EU/EFTA country were excluded from the review; the review deadlines were shortened, and certain penalty provisions were modified. Overall, businesses and policymakers assessed their cooperation positively. For the Business Authority, it helped them to mitigate most of the criticism and maintain good relationships with the business community (Interview 14ORG1S1). For businesses, it helped improve legal certainty and promote their interests to the best possible extent (Interview 17BA1S1).

However, upon policy adoption, most business groups in Denmark shared the view that, even though ISM was necessary to address the emerging FDI-related threats, the adopted legislation was “way too broad.” They were concerned not over a potential denial of FDIs but over the heavy administrative and financial burden imposed by the broad screening scheme, where “to catch that one critical investment you might have to screen a lot of benign investment” (Interview 4BA2S1).

4.4. Implementation: Is Securitisation Over?

The Danish ISM entered into force in July 2021 and is subject to an official evaluation by the end of 2023. At the time of writing, an evaluation had not yet been issued. However, the officials from the Business Authority reported that the “numbers in Denmark are following the EU trends” (Interview 14ORG1S1). They referenced the Commission’s report from September 2022, according to which out of 29% of cases that were formally screened, only 1% of FDIs were prohibited, 23% were conditioned, and 73% were authorised without conditions. The reference to European trends suggests that very few transactions in Denmark have been banned. As to businesses, they assess implementation as “reasonable” and “manageable” (Interviews 19BA2S1, 17BA1S1), which to a certain degree mitigates the initial critique of some of the ISM provisions.

While the initial implementation trends indicate that most FDI is “still welcome,” the shared perception of “threat” seems to have been influenced by an “exogenous shock,” particularly a full-scale Russian invasion of Ukraine in 2022. The invasion brought a high-intensity war to the European doorstep, and, followed by Chinese ambiguous position indicating further sliding towards authoritarianism, this widened the split between democratic and authoritarian worlds. These developments have added to further *extension of the perception* of the “threat” by businesses (e.g., including Russia into the category of rival investors, which has not been seen as such before the invasion), *acknowledgement* of political *justifications behind securitisation* of economics (e.g., to have a mechanism to correct market-driven policies based on “short-sighted” business interest), and *expectations* for

more market restrictions (e.g., legislation on outward investment screening; Interviews 17BA1S1, 19BA2S1).

Liberal-minded Danish business groups seem to accept the new geopolitical reality in which economic policies are no longer separated from security considerations (Interviews 17BA1S1, 19BA2S1). This new reality increases uncertainty, which is related to the future of doing business in geopolitically rival countries and to the upcoming legislation furthering market restrictions. It is yet to be seen how the European and global markets will be redrawn; however, there is a growing realisation among economic actors that “business as usual” seems no longer possible. The reassessment of commercial policies, the perception of related risks, and, consequently, considerations for adjusting the legal regime remain an ongoing process.

5. Discussion

The study suggests several theoretical implications. First, it offers an extension of our view of “securitiser” both “vertically” and “horizontally.” The “vertical” extension refers to the supranational level of the EU. For Denmark and the majority of the other member states, the idea of investment screening came from the EU level, gradually spread, and became legitimised, leading to multilevel and multi-spaced securitisation. The “horizontal” extension refers to the broader composition of the working group, where along with “traditional” securitising actors such as defence and foreign affairs ministries we observe the inclusion of “new” actors such as the Ministry of Industry, Business, and Financial Affairs. Whether this composition contributed well to securitisation remains a question. On the one hand, the fragmented representation did not allow for a full alignment of policy stances between business and government. On the other hand, the Business Authority’s pre-established dialogue with interest groups contributed to businesses’ engagement in the discussion, their acceptance and compliance with the legislation, and their perception of the implementation as “reasonable.”

Second, the study illustrates how business identities enter into play when making meaning of new categories and policy stances under securitisation. During early debates, the initial response was very much shaped by the shared identity of Northern “free traders” against the “others,” i.e., industrialised and protectionist France, Italy, and partly Germany. The new policy instrument was taken as a part of this “traditional” free trade vs. protectionism rivalry. The initial strategic responses—focusing efforts on local politicians—were shaped by the expectations of a narrow mechanism based on the business–government shared perception of the Danish economy. Later in the process, the traditional “free-trader” identities came into play with the wider “European” identities, where France, for instance, was no longer one of the “others,” and “otherness” was assigned to geopolitical rivals that might pursue FDI for strategic reasons.

Both identities were reflected in the policy preferences: The “free-trader” identities account for the narrow sector coverage, whereas wider European identities account for advocating the exclusion of OECD, EFTA, and EU investors from the review.

Finally, the study shows the importance of networks, discourses, and exogenous shocks in shaping security-related policy preferences under uncertainty. Business groups were embedded into various networks of policy-makers and stakeholders across national and European levels being exposed to wider discourses, which shifted their focus from economic to security aspects of the regulation and influenced their own perceptions of FDI and ISM. When faced with (unpredicted) exogenous shocks, such as high-intensity war followed by severe economic sanctions, businesses face even wider uncertainty in terms of upcoming regulatory reforms and doing business in rival regimes. To cope with uncertainty, businesses, again, rely on local and European networks to gain information and turn to “self-modulation” of both practices and discourses.

6. Conclusion

In this article, I argue that business policy preferences on ISM were shaped in the multilevel context of securitisation of commercial policies due to the emerging needs of governments to manage geopolitical security issues. Being exposed to increasing security discourses across different levels, businesses gradually embraced the idea that FDI can pose a strategic threat and accepted the necessity of investment screening policies. The multiple identities came into play when formulating policy responses; however, they were only partly accepted by the government in the context of a fragmented securitisation process, and the understanding of “threat” between government and business groups did not fully align. At the same time, due to new security challenges, exogenous shocks, and increasing uncertainty, business groups continue to self-modulate their practices and discourses related to geoeconomic challenges.

Recent policy developments in Europe indicate that we can expect a broad redrawing of global economic borders. The European economic security strategy published by the Commission in June 2023 outlines three interrelated strategic priorities: “promoting,” “protecting,” and “partnering.” While FDI screening is clearly placed within the framework of protecting Europe from “commonly identified economic security risks,” the “promoting” of the EU competitiveness “by making our economy and supply chains more resilient” and “partnering” with countries sharing EU “concerns on economic security” (European Commission, 2023, pp. 2–3) go hand-in-hand with security-motivated market interventions and suggest several implications. First, we can expect further political and legal developments in market regulation and practices, including the diversification of supply and export markets and a reorientation of

trade and capital flows from geopolitically “unfriendly” countries towards geopolitical allies. As a result, we can expect a growing regionalisation of the global economy, where future markets will likely be reshaped to mirror the geopolitical landscape—similar to the decades of the Cold War (Gowa, 1995) before the “end of history” was declared in the 1990s (Babić et al., 2022). Consequently, we can expect growing political and business efforts to increase the camp of geoeconomic allies by pursuing closer ties with the countries of the Global South.

The Commission clearly indicates that implementing the strategy requires cooperation from the side of European business, as “identifying the main risks and designing policy responses should tap into the knowledge of European companies that are already working to mitigate many of these threats” (European Commission, 2023, pp. 3–4). Business groups, on their side, are stepping into the new world of geoeconomics, where security and economic considerations go hand-in-hand and reinforce each other. Future research must determine how market actors adapt to and what role they undertake in this new geoeconomic reality.

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Conflict of Interests

The author declares no conflict of interests.

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About the Author



Anna Vlasjuk Nibe is a PhD candidate at the University of Southern Denmark. She holds an MSc in International Economic Law from Kyiv National Economic University, named after Vadym Hetman, and a BSc in Market and Management Anthropology from the University of Southern Denmark. Anna's professional experience includes legal consultancy in the fields of corporate law, cross-border transactions, and foreign direct investment, and research and teaching in the field of EU policymaking. Anna's research interests include the geo-politicisation of EU commercial policy, globalisation and geoeconomics, and the role of market actors in a changing global order.

Article

Arming Fortress Europe? Spaces and Instruments of Economic Patriotism in EU Armament Policy

Catherine Hoeffler^{1,2}

¹ Robert Schuman Centre for Advanced Studies, European University Institute, Italy; catherine.hoeffler@eui.eu

² Centre Émile Durkheim, Sciences Po Bordeaux, France

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Abstract

How does the EU adapt its policies in response to current global changes? Extant scholarship has shed light on the EU's geopolitical turn by analysing it as either a shift away from neoliberalism or a reshuffling of EU–US relations. This article makes the case for studying how these two dynamics interact. To do so, I draw on the economic patriotism framework, which focuses on the links between types and spaces of economic interventionism. Economic patriotism instruments can take various forms depending on their type (liberal/protectionist instruments) and space of reference (national/EU/transatlantic/international). From this perspective, the EU has responded to global changes by shifting from liberal to protectionist instruments of economic patriotism. However, the design of these policy instruments reflects compromises between the preferences of policymakers who adopt liberal/protectionist and Europeanist/Atlanticist positions. As policy instruments can create room for compromise because they allow various positions to converge, EU protectionist economic instruments cater to Atlanticist and liberal preferences too. This article illustrates this argument by means of EU armament policy. Using official documents and interviews, I analyse changes in EU economic patriotism by looking at the two major policy instruments: the 2009 Defence Procurement Directive and the 2021 European Defence Fund. Whereas the 2009 Directive reflected liberal economic patriotism anchored in the transatlantic space, the European Defence Fund illustrates tensions between types and spaces of economic interventionism in the EU's geopolitical turn: Some clauses protect the EU from foreign interference, but its political-economic space of reference remains strongly transatlantic.

Keywords

armament; Common Security and Defence Policy; economic nationalism; economic patriotism; European geopolitics; Fortress Europe

Issue

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1. Introduction: Fortress Europe in Arms

Rising geopolitical tensions have called into question the neoliberal regulation of markets worldwide. In this context, the EU has undergone what has been characterised as a geopolitical (McNamara, 2023; Meunier & Nicolaidis, 2019) or geoeconomic turn (Babić et al., 2022). One strand of literature examines this turn as a change in types of economic interventionism. The rise of (open) strategic autonomy discourse, industrial policy and trade defence instruments illustrates a possible shift away from neoliberalism (T. Jacobs et al., 2023; Schmitz & Seidl, 2022).

This geopolitical turn has also revived scholarly interest in looking at the EU from the perspective of political-economic spaces and boundaries (Schimmelfennig, 2021). Lavery and Schmid (2021), for example, affirm that global changes have led the EU to reconsider its relationship with the US and observe that it has progressively sought autonomy by de-aligning. Lavery (2023) explains the evolution of EU economic policies over time and the current move towards a “selective” Fortress Europe by the power shifts between the proponents of two competing conceptions of the EU as a political-economic space, namely “Fortress” vs. “Atlantic” Europe.

This article draws on and contributes to these debates in two ways. First, extant scholarships barely address the links between the types and political-economic spaces of reference to economic interventionism. The literature on economic interventionism does not investigate *what* bounded political-economic space, i.e., whose domestic industry, is being promoted. That the EU is becoming such a reference space cannot, however, be taken for granted. Europeans disagree about how to define an “EU industry” and whether it should enjoy preferential treatment. Similarly, discussions on re- or friendshoring show that protective measures may apply to various political-economic spaces of reference. Conversely, the “Fortress Europe” literature implies a shift to protectionism but does not elaborate on its territorial anchor. Linking economic interventionism *types* and *spaces* is relevant given that they influence one another: While current global changes may push for protectionism, there is no necessary consensus on what political-economic space to protect in the first place.

Second, both strands of scholarship seek to analyse whether current shifts amount to a profound change in EU policies. They acknowledge that EU policy responses to global challenges have been mixed. Regarding the type of economic interventionism, current developments are not linear from neoliberal openness to protectionism. Scholarship observes that neoliberal and protectionist vocabularies are entangled, but draw differing conclusions. While for some the rise of the concept of “open strategic autonomy” testifies to an unsettling of the EU’s neoliberal consensus (Schmitz & Seidl, 2022), for others it is more akin to a neoliberal adaptation to new challenges (T. Jacobs et al., 2023). How this discursive ambiguity translates into policy instruments is unclear. Regarding spaces of economic interventionism, Lavery (2023) points to tangible but partial change, with EU fortification being selective. However, why certain policy instruments participate in Fortress Europe and others do not should be analysed. To understand current changes in EU policies, we need to be able to better conceptualise and explain ambiguity at the level of policy instruments as they are neither strictly liberal nor protectionist and do not squarely fall into either “Fortress Europe” or “Atlantic Europe” conceptions.

To contribute to this debate, I ask to what extent does the EU’s geopolitical turn entail not only a change in the type of economic interventionism but also a (re)production of the EU as a bounded political-economic space of reference? To address this question, I build on the economic nationalism and patriotism literature (Clift & Woll, 2012; Helleiner & Pickel, 2005). Focusing on the political strategies that shape markets in favour of a political-economic space of reference and its insiders, economic patriotism constitutes a useful framework to analyse how global changes have led the EU to develop new economic interventionist policy instruments designed specifically to promote EU insiders. From this perspective, European policymakers

develop economic patriotism instruments when they perceive the risks associated with global interdependence. However, this does not mean that policymakers agree on how to do this. Economic patriotism instruments can take many forms as they lie on a liberal/protectionist continuum and vary in their policy targets (insider-/outsider-oriented). Moreover, policymakers can disagree on whether the EU constitutes the major space of reference to tackle these challenges. Rather than a functional fit, the economic patriotism framework points to the role of politics in explaining the design of economic patriotism policy instruments. Rather than one or the other, their design reflects policymakers’ positions regarding both the types (liberal/protectionist) and the spaces (Europeanist/Atlanticist) of desired economic interventionism. Consensus-driven EU policymaking and the constellation of policymakers’ positions constitute the boundaries within which compromises over the design of economic patriotism instruments can be crafted.

This article focuses on EU armament policy. Three factors justify paying attention to this policy. First, it constitutes an unlikely case of EU economic patriotism. Governments retain *de jure* competence over defence procurement while *de facto* overwhelmingly buying US defence equipment (European Defence Agency, 2023; Uttley, 2018). States’ armament policies are therefore embedded in national and transatlantic economic-political spaces, making the EU an unlikely candidate. Second, the war in Ukraine and the prospect of military escalation have given salience to the role of the EU in armament production. Last, while it is linked to military needs, armament policy is also shaped by economic security concerns, as defence firms depend on global supply chains (e.g., for semiconductors) and rely on exports. Armament policy therefore represents a fertile site to observe how, already before the publication of its 2023 Economic Security Strategy, the EU created instruments to secure its industrial and technological capacities. Looking into how these logics play out in armament policy contributes to the growing research agenda on the security-economics nexus at the intersection between international, regional, and domestic policies.

By applying an economic patriotism lens, I argue that geopolitical tensions have led to changes in the type of EU economic patriotism: The EU has turned from liberal- to protectionist-inspired instruments in armament policy, but this turn has been largely constrained by the dissensus among member states over the role of the EU as a political-economic space of reference. In other words, more than before, the EU has become a space of reference in armament policy, but it is still contested and entangled in national and transatlantic ones. The 2009 Defence Procurement Directive represented liberal supranational economic patriotism, with which market-making was supposed to ensure the survival of European defence industries in the transatlantic space. By contrast, the 2021 European Defence

Fund (EDF) represents economic patriotism through subsidies to promote European capabilities. This shift towards a seemingly protectionist instrument reflects, however, enduring conflicts between Europeanist and Atlanticist factions over the role of the EU in defence policy and preferences regarding the types of economic interventionism. The intersection between these dimensions explains what protectionism forms and space are acceptable. Because many states hold a NATO-centred concept of European security, the EDF does not discriminate in favour of strictly defined EU insiders. It creates a broader definition of insiders, as its eligibility criteria are a mix of territorial and functional ones. However, the EDF includes provisions prohibiting foreign constraints on EU-funded actions, thereby providing the EU with more autonomy from its American partner than before.

To explore how current international tensions have shaped economic patriotism in EU armament policy, I look at the two main EU instruments to date: the 2009 Defence Procurement Directive and the 2021 EDF. Based on official documents (regulations, debates, speeches), media outlets, and 12 interviews with public (officials from the EU Commission, Parliament, and four member states) and private (firms, business associations) actors (see Supplementary File for details on the interviews conducted), I analyse whether economic patriotism is discernible, through what kind of economic policy instruments and in what political-economic reference space.

This article mainly contributes to three strands of literature. First, it speaks to scholarship on the impact of global changes on EU policies by showing the lasting influence of the opposition between Europeanist and Atlanticist coalitions in economic policies as in security policies (Hofmann, 2013; Lavery, 2023). This opposition may be more helpful to understand how the EU positions itself regarding the current US–China rivalry than a focus only on the competition between economic paradigms. Second, it complements existing scholarship on EU Common Security and Defence Policy by showing the influence of states' economic preferences in addition to strategic ones. It also nuances our understanding of the EDF as an instrument of EU strategic autonomy, as the fund is open to non-EU actors. Last, because it speaks to the impact of security threats on the development of the EU as a political-economic space, the article also contributes to the debates pertaining to EU state-building (Genschel & Schimmelfennig, 2022; Kelemen & McNamara, 2022). This contribution demonstrates that while the EU has new competencies in armament matters, military capacity-building remains national. This underlines how the EU is entangled in national and transatlantic spaces, thereby invalidating core expectations of bellicist state-building approaches (Tilly, 1992) applied to the EU.

This article is organised as follows. The following section presents the conceptual framework. The third section presents the 2009 Defence Procurement Directive and the fourth analyses the EDF. I conclude by sum-

marising the article's key findings, before discussing how its argument applies to current EU initiatives since the Russian invasion of Ukraine and presenting further avenues for research.

2. Between Liberal Openness and Fortress Europe: Linking Types and Spaces of EU Economic Patriotism

Recent scholarship has started to explore the EU's geopolitical turn (McNamara, 2023; Meunier & Nicolaidis, 2019) as a response to the "new global disorder" (Lavery & Schmid, 2021). This article contributes to this debate based on the economic patriotism literature, which makes two main contributions. First, it helps to jointly conceptualise changes in economic interventionism types and spaces, thereby showing how a shift to protectionism can clash with competing political-economic spaces. Second, by conceptualising a variety of policy instruments beyond neoliberal/protectionist and Europeanist/Atlanticist dichotomies, it sheds light on the mechanisms that produce ambiguity at the level of policy instruments.

2.1. The EU's Geopolitical Turn as a Shift in Economic Interventionism Types and Political-Economic Spaces

The EU's geopolitical turn represents a change in the type of EU economic interventionism away from neoliberalism towards what has been characterised as stronger market activism (McNamara, 2023), neomercantilism (Schmitz & Seidl, 2022), or sometimes protectionism (J. Jacobs, 2019). A second perspective to capture this turn has been the one focusing on spaces and boundaries (Schimmelfennig, 2021). Global changes impact how European policymakers consider the EU as a space and its place in the world. According to Lavery and Schmid (2021), the EU has questioned its strategy of "autonomy through alignment" with the US, seeking more autonomous solutions from its American partner than before. It is no surprise that the concept of "Fortress Europe" has been revived in this context, as it combines assumptions regarding a shift in the type of economic interventionism, i.e., towards protectionism, and one in the reference space, i.e., the emergence of the EU as a political-economic reference space. Fortress Europe is reminiscent of catchphrases much in fashion in Brussels, such as strategic or European autonomy. For Lavery (2023), the EU has not turned into a fortress but has begun a process of "selective fortification" in some policies. He explains the history of the EU's relationship with the US in general, and this outcome in particular, with the struggles between the proponents of the Atlantic Europe and the Fortress Europe conceptions.

These two perspectives need to be brought together. First, focusing on either types or spaces of economic interventionism prevents us from looking at the intrinsic links between the two dimensions. The literature on economic interventionism barely touches upon the

persistent dissensus regarding the definition of EU insiders, which itself points to the enduring competition between transatlantic and EU-centred spaces. The literature on Fortress Europe does not elaborate sufficiently on the shift in economic interventionism towards protectionism. Choices in favour of one type of economic interventionism, i.e., liberal/protectionist, cannot be considered in isolation from policymakers' preferences regarding the place of the EU vis-à-vis its American partner (Fortress Europe vs. Atlantic Europe). To analyse what the EU's geopolitical turn means in terms of EU policies, we therefore need to account for the links and tensions between choices on types and spaces of economic interventionism.

A second dimension to elaborate on is the characterisation of change beyond discourses, i.e., in policy instruments. Extant scholarship agrees that EU responses to current global changes are not consistent with either neoliberal openness or protectionist Fortress Europe. The ambiguity of change has been pointed out at the discursive level, as illustrated by the "open strategic autonomy" motto (T. Jacobs et al., 2023; Schmitz & Seidl, 2022). At the level of instruments, Lavery (2023) points to the selectivity of fortification-cum-protectionism, albeit without detailing the logics behind such selective fortification and how it translates into policy instruments. Understanding the EU's geopolitical turn requires better conceptualising the ambiguity of policy change, by which I mean focusing on policy instruments that neither fall neatly into neoliberal or protectionist categories nor resonate with either Fortress Europe or Atlantic Europe. This is where the economic patriotism framework comes in.

2.2. The Geopolitical Turn Through the Lens of Economic Patriotism

Clift and Woll's (2012) economic patriotism framework is embedded in the larger economic nationalism literature. This research agenda focuses on the influence of the national on the economic (Helleiner & Pickel, 2005, p. 2). Rather than an exclusive focus on *nationalism*, Clift and Woll (2012) use the concept of economic *patriotism* to point to a dynamic re-articulation of economic *patriotic* strategies from local to international political-economic spaces. Global and regional economic integration processes have complicated the identification of purely national economic spaces. This is especially so for the EU, where high levels of integration contribute to a re-articulation of sovereignty (Jabko & Luhman, 2019). Consequently, the political-economic space of reference policymakers defend is not necessarily the national state: They can defend local or regional interests. I will refer to economic *patriotism* and to its *patrie* as a political-economic space. This does not refer to a sociological reality but to a territorial imaginary and a cultural-political understanding of a community. Geographical territoriality is not enough as insiders can also be defined based

on nationality or cultural identity. Policymakers do not necessarily see eye to eye on the definition and boundaries of the *patrie* whose members deserve protection. This variance is notable in the European context, where some political factions advocate for national economic patriotism, while others advocate for the EU as the adequate level to regulate trade in the interests of EU firms. This article focuses on top-down economic patriotism, namely the political strategies and institutional tools (policy instruments) policymakers deploy to promote the interests of their political-economic space.

2.2.1. The Roots and Aims of Economic Patriotism

Economic patriotism finds its roots in the way policymakers perceive and manage the tensions between their territorially embedded political mandate (e.g., delivering acceptable levels of economic growth or security) and the effects of global interdependence (as discussed by Crouch, 2008, as cited in Clift & Woll, 2012). Global interdependence can help achieve political goals but can also impede them. Currently, policymakers increasingly see interdependence as a cause of vulnerability because dependence on foreign actors is considered less reliable (Farrell & Newman, 2019).

Perceiving risks associated with interdependence leads policymakers to try to defend and/or promote the "autonomy, unity or identity" (Clift & Woll, 2012, p. 313) of their space. Overall, in a context where interdependence is depicted as a source of vulnerability, economic patriotism is a political project by which patriotic political actors aim to make their political-economic space less dependent on the outside in order to regain more control (Clift & Woll, 2012). Fetzer (2021) identifies three ways in which the political economy scholarship has operationalised economic nationalism and patriotism: developing homegrown capacities (developmentalism), economic discrimination in favour of insiders (economic partiality), and attempts at economic self-rule understood as partial autonomy from the outside. These strategies mostly overlap. They do not necessarily aim for autarky but instead for less dependence on foreign actors for critical capacities and more insulation of decision-making from foreign interference. The aim is as much for *autonomy to* act as for *autonomy from* the outside. In doing this, economic patriotism strategies constitute more than a simple response to the risks associated with interdependence. Economic patriotism represents a political project seeking to (re)produce political and economic integration within a territorially bounded space (Pickel, 2003).

2.2.2. Explaining the Variety of Economic Patriotic Instruments

Economic patriotism policy instruments can take many forms. First, they can be both protectionist and liberal (Helleiner & Pickel, 2005). Policymakers can promote

territorially-defined interests through liberal measures such as market liberalisation or through protectionist tariffs. Moreover, the liberalism/protectionism binary is more a continuum than a dichotomy, as economies are never either open or closed, but instead exhibit policy instruments that are more or less liberal/protectionist (Clift & Woll, 2012). Second, Clift and Woll (2012) also differentiate economic patriotism instruments according to their policy targets. Some instruments favour insiders, while others regulate the behaviour of foreign actors. This distinction overlaps with economic patriotism forms of economic partiality and self-rule (Fetzer, 2021): Insider-targeting instruments discriminate in favour of homegrown capacities; outsider-targeting instruments try to insulate the political-economic space from foreign influence. Both insider- and outsider-targeting instruments can take more or less liberal/protectionist forms. For instance, political authorities may want to secure the security of the supply of critical minerals through some economic partiality, although not on economic patriotic criteria: A foreign firm can temporarily relocate or respond to functional security criteria to be allocated public funds. Consequently, while they can lean towards one end of the liberal-protectionist spectrum, policy instruments most of the time combine various forms of economic patriotism and various targets.

Clift and Woll (2012) put politics and policymakers' strategies centre-stage to explain the design of economic patriotism policy instruments. Far from being functionally determined, their design results from the creativity of policymakers in juggling tensions between international and local imperatives, and from the need for compromise in varying political settings. Compromises can be achieved through the design of policy instruments. First, policy instruments can offer room for compromise because their design combines more or less liberal and protectionist features, articulated around various insider- or outsider-targeting measures. Second, just as for discourses (Jabko, 2006), policymakers can understand the meanings and aims of policy instruments differently. Instruments can nurture and reflect "creative ambiguity" (Jegen & Mérand, 2014), allowing policymakers with different preferences to support them. The need for compromise is linked to the type of policies and policy settings. Because of consensus-oriented EU policy-making (Kleine, 2014) in general and the influence of national governments over security issues in particular, the EU is likely to adopt economic patriotic instruments that reflect a compromise between the varying positions of states.

States' preferences regarding both the type and space of economic interventionism inform the political conflict in negotiations on EU economic patriotism instruments. First, in terms of the type of economic interventionism, the range of economic patriotism instruments has been historically limited. In a context of dominance of neoliberal ideas, Clift and Woll (2012) expected economic patriotism strategies to take more liberal forms.

Legal and political constraints limited the use of protectionist instruments available to patriotic policymakers. Economic discrimination has been at odds with the liberal DNA of European integration (Rosamond, 2012), making any instrument targeting EU insiders unlikely. Extant scholarship has explained the evolution of EU economic interventionism by the dominance of neoliberals over neomercantilists and socially-oriented coalitions (van Apeldoorn, 2002; Warlouzet, 2018). Second, economic patriotism instruments are shaped by preferences regarding political-economic spaces. In the case of the EU, economic patriotism instruments are influenced by conflicts over the definition of the EU as a political-economic space of reference. Member states hold varying territorial imaginaries and cultural understandings of the place of the EU in relation to other competing political-economic spaces such as the state (whether the EU should be more integrated) but also international spaces. Be it regarding trade or defence, member states are divided between Atlanticist and Europeanist coalitions (Bátora, 2009; Hofmann, 2013), a dichotomy elsewhere called Atlantic vs. Fortress Europe (Lavery, 2023). For the former, the space of reference is transatlantic, with a strong emphasis on the role of the US, while the latter promotes a vision of an EU more insulated from its American partner. Debates on the type of economic interventionism to adopt are not only influenced by this division between Europeanist and Atlanticist factions but are intrinsically embedded in it. EU patriotic actors seeking to develop measures enhancing the EU as a distinct political-economic community are likely to meet resistance from Atlanticists and actors opposing more EU integration per se. A main contribution of the economic patriotism framework is to underline that these space-related and economic preferences need to be assessed simultaneously. How they combine is not a given. Policymakers are rarely unambiguously liberal or protectionist and Atlanticist or Europeanist. Their preferences can slightly shift. How preferences combine or clash opens certain possibilities for change.

The economic patriotism analytical framework offers plausible arguments for how EU policies have evolved in response to new international challenges (Lavery & Schmid, 2021). It points to the intrinsic link—and tension—between the types and spaces of economic interventionism that the EU's geopolitical turn (re)produces. It helps explore whether the shift away from neoliberalism is accompanied by changes in the political-economic space of reference. In the current context where interdependence is, more than before, portrayed as a source of vulnerability, European policymakers across the board are likely to problematise the need for Europe to be more protected from outsiders. How they plan to do this will vary according to their preferences regarding the appropriate type of economic interventionism (liberal/protectionist) and their preferences regarding the EU as a proper political-economic space. Europeanist and protectionist-inspired policymakers in

the EU—especially supranational economic patriotic actors who would benefit from them—are likely to promote new protectionist, supranational economic patriotism instruments, aimed at increasing EU autonomy from the outside and most importantly reducing its dependence on the US. However, an alignment of protectionism with Europeanist preferences is not given. Some may promote protectionism in favour of the transatlantic political-economic space. Moreover, liberal-minded policymakers are unlikely to accept any radical shift away from liberal policy instruments, particularly not at the EU level, which was supposed to be the guarantor of market discipline within and beyond its boundaries. They may, however, accept liberal forms of economic patriotism, which rely on market mechanisms to achieve the survival and prosperity of the political-economic community. Similarly, liberal-minded actors may prefer instruments that regulate foreign actors' behaviour, which are less direct and politically sensitive than insider-targeting economic discrimination. Depending on the policy at stake, liberals can potentially agree on Europeanist- and Atlanticist-leaning solutions.

3. Liberal Economic Patriotism as Regional Market Integration: The EU 2009 Defence Procurement Directive

The Directive 2009/81/EC of 13 July 2009 (2009; from now on referred to as the 2009 Defence Procurement Directive) is a case of supranational liberal economic patriotism through regional market integration (Clift & Woll, 2012, p. 315). Its liberal form is inherently shaped by an ambiguous compromise between Atlanticists and Europeanists as to which political-economic spaces it should promote.

Historically, EU member states have retained competence over their security and defence policy. Based on an extensive interpretation of article 346 in the Treaty of Lisbon (2007), armament procurement has escaped EU single market rules. In the late 1990s, the European Commission started to look into ways of disciplining national armament procurement practices through its competence in competition and industry (Mörth, 2000). For the Commission, only a European “defence market” would ensure competitiveness and hence the survival of the so-called European Defence Industrial and Technological Base. In 2009, the EU adopted its first piece of legislation on armament procurement: the Defence Procurement Directive.

The directive testifies to the predominance of liberal conceptions of EU market regulation and their translation into economic patriotism. Its aim is market-making insofar as it seeks to limit state discretionary practices by introducing competition requirements. During the negotiations (Hoeffler, 2012), France suggested creating a form of EU protectionism by making competition requirements open to EU firms only. The majority of member states rejected this because of both their economic pref-

erences and conceptions of reference spaces. In addition to considering protectionism politically unacceptable and economically disastrous, they opposed EU protectionism because they preferred keeping the EU within a transatlantic NATO-centred space. Moreover, protectionist EU would not only exclude the US but would first and foremost protect French industry.

The directive mostly catered to Atlanticist and liberal positions. From this perspective, market-making is supposed to benefit European firms as it creates more market opportunities across member states. Moreover, the directive included a liberal outsider-targeting clause: The directive's recital 18 called on other states to open their markets too (Directive 2009/81/EC of 13 July 2009, 2009). For EU officials, this was a clear signal to the US, whose domestic market is still very closed to European firms. The directive therefore represents a liberal instrument to promote EU firms in a transatlantic space. This is all the more so as the directive did not alter national competence, which allowed member states to continue to procure US weapons.

While representing a liberal form of economic patriotism embedded in a transatlantic political-economic reference space, the directive gave some satisfaction to Europeanist- and protectionist-inclined governments such as France. First, Atlanticist liberals like the UK and Europeanist protectionists like France could have different readings of the directive. While the former read it as liberal market-opening the latter saw it as a first step towards EU industrial policy: Short of an in-built EU preference, imposing more competition should theoretically make more space for European (French) firms against US ones. At the very least, the directive reflected a consensus on the need to support EU defence firms. Second, the directive contained some indirect financial incentives (exemption from competition rules) for European governments to launch and cooperate in joint armament programmes. Despite being marginal, this element pleased Europeanist governments, who promoted the EU as a new reference space in armament production. This question gained salience on the EU agenda and materialised in the EDF.

4. Building Up Europe's Fortress? The European Defence Fund, a Not-So-Protectionist Subsidy In-Between Transatlantic and EU Political-Economic Spaces

Proposed in 2016 and in force since 2021, the EDF is an EU instrument which co-finances collaborative military research and development projects. It constitutes a shift in the type of EU economic patriotism, from liberal market-making to protectionist subsidies. However, the instrument's design reveals that the shift is more ambiguous than it seems. On the one hand, its eligibility criteria reflect the strength of liberal, Atlanticist preferences among member states, as the EDF is open to a larger political-economic space than the EU. On the other

hand, the EDF includes outsider-targeting provisions that can be labelled as protectionist, as they seek to keep EU-funded actions free from foreign control. I argue that this ambiguous policy design is explained by enduring conflicts among member states regarding the combination of spaces and types of economic interventionism.

4.1. *International Security and the Shift to Subsidies*

The European Commission justified its shift to defence industrial policy by citing international security threats (Håkansson, 2021). A 2013 EU Communication argued that enhanced security threats required the EU to support military capacity-building, inter alia by the EU subsidising military research and development. The December 2013 European Council Conclusions approved this and gave the Commission a green light. A first small-scale pilot project was launched in 2015. The new President of the Commission Jean-Claude Juncker put defence high on his agenda. According to him, growing security risks made it necessary for Europeans to rearm, and the EU provided the most efficient and politically relevant framework to do this. In September 2016, he announced the Commission would propose a fund to finance cooperative armament projects. The Commission consequently launched the 2017 Preparatory Action on Defence Research and the 2018 European Defence Industrial Development Programme (EDIDP), which laid the ground for the larger-scale 2021 EDF.

For many actors, while the international security environment had deteriorated, the Trump administration and Brexit had shown Europeans their vulnerability (Interview 1). This sentiment was shared by Atlanticist countries such as Germany, and even those with the strongest liberal take such as the Netherlands or Sweden (Interview 2; Interview 3). There was a consensus among states that the EDF should serve to reinforce European capacities (Interview 4), and that this should not be seen as against NATO but complementary to it (Interview 5; Interview 3). This was echoed by Ursula von der Leyen, then German Defence Minister, for whom both events represented a “wake-up call—that we need to change things and stand on our own feet....We want to remain transatlantic but at the same time become more European” (Manson & Chazan, 2018). The Parliament and Council agreed with the Commission’s plan to strengthen strategic autonomy: “The EDF respects one major objective: strategic autonomy. Two years ago, nobody but the French were talking about it. Now everybody talks about it.” (Interview 6; Interview 7).

These instruments include clauses targeting both insiders and outsiders. Most of the negotiations happened during the preparation of the EDIDP, which served as a crash test for the EDF: It allowed the Commission to test the ground with member states and firms and fine-tune the instrument’s design. As the EDF heavily draws on the EDIDP and the negotiation periods overlap, I will refer to discussions regarding both the EDIDP and the EDF.

4.2. *Friends With Benefits: A Liberal Definition of Insiders Beyond the EU*

Creating a fund involved creating boundaries as EU funding cannot go into just anyone’s pockets. What kind of boundaries and where to draw them were, however, less clear to the Commission, the European Parliament, and the Council of Ministers:

The real problem we had in negotiations was: who would have access to the fund....The biggest added value of that process was that we defined what a “European” industry is. Because of that question...we were forced to sit down and find a solution....It is a complex one, but it reflects the complexity of Europeans’ situation. (Interview 6)

Negotiations focused on the matter of state participation. There was a consensus that the EDF should be open not only to EU member states but also to EU-associated countries, defined as members of the European Free Trade Association, which are also members of the European Economic Area. The definition of eligible business entities caused more discussion. Member states and firms criticised the Commission’s initial eligibility criterion focused on capital control (Interview 6), as it would not include obvious European businesses such as Airbus. Moreover, the Council and Parliament (through its Commission on Industry, Research and Energy) both wanted to open the EDF to third-state firms. Countries such as Sweden were very vocal about third-state participation. Sweden considered—despite its military neutrality—that NATO should not be alienated from such initiatives, and that closing EU funds represented protectionism, which ran against Swedish interests and political DNA (Interview 8). Except for the Czech Republic and Poland, most Eastern and Central European countries were reluctant, as they do not have firms which could benefit from such funds (Interview 9). While European defence industries were generally supportive of such funds, they were divided over the degree of concentration on EU-only actors. With Brexit, the participation of UK firms was encouraged (Interview 10). Others insisted on the need to develop truly European equipment if Europe does not want to be limited to “Ikea-style” assemblage tasks in the future (Interview 11).

The compromise was eligibility based on territoriality and autonomy from foreign interference. A recipient should be located within the EU, as should its infrastructure, assets, and executive management, and a third entity should not control it. However, three derogations were introduced: A third-party-controlled entity located in the EU could be eligible, provided it can guarantee its ability to act without foreign restraint or contravene the EU’s security interests and that it can keep sensitive information and intellectual property within the EU and associated state boundaries. Entities located in third states can participate if there is no competing alternative

in the EU or if member states wish to cooperate with third states, provided they respect security guarantees. In these two scenarios, third-state participating firms cannot, however, receive EU funding.

Therefore, as an insider-targeting measure, the EDF does not create protectionist EU-centred economic discrimination. First, in terms of participating states, the EDF does not cater to the EU as a political-economic space but to the “EU + associated members.” This translated into Norway joining the EDF. Secondly, because the eligibility of firms is based on territoriality and functional criteria, foreign firms can benefit from EU funds. For instance, four Canadian, US, and Japanese firms participated in EDIDP programmes. Those functional boundaries illustrate the compromise between an agreement among policymakers over the need for more “home-grown” capacities and more security of supply on the one hand, and the overall preference in favour of market openness (against any EU preference), on the other. This is even more true given that the EDF does not alter the legal framework of national armament policies, which mostly remain open to foreign firms.

4.3. No Strings Attached: EU Autonomy From Foreign Interference

In addition to its eligibility criteria, the EDF also reflects economic patriotism strategies through its provisions targeting outsiders. Those pertain most importantly to intellectual property rights and export restrictions. EU texts have grown more constraining. Contrary to the Commission’s EDIDP proposal, the adopted EDIDP and the EDF state that intellectual property resulting from funded action should not be controlled or restrained by third states or third-state entities. Third parties cannot control or restrain the use of funded actions, including their export. This was specifically thought of as the “anti-ITAR [US International Traffic in Arms Regulations]” clause (Interview 6). ITAR allows the US administration to control the trade in defence products containing any US component. This has extraterritorial reach and therefore applies to equipment owned by other states.

EU policymakers have agreed on economic self-rule clauses as they shared the aim of having control over capacities resulting from the EDF. However, they shared different understandings of what this meant in terms of economic patriotism. For some, the insertion of such clauses was intimately linked to some “European preference” even if they did not use this language to accommodate Atlanticist/liberal member states (Interview 6). For Atlanticists, these provisions were acceptable because they did not amount to protectionism, and because autonomous European capacity was meant as a way to strengthen NATO (Interview 5; Interview 12).

The backlash from the US that these provisions created testifies to the fact that the EDF had been read as protectionist by some. In February 2018, ahead of a NATO Defence Ministers meeting, the US Ambassador to

NATO K. B. Hutchison warned that:

We do not want this to be a protectionist vehicle for the EU. And we’re going to watch carefully, because if that becomes the case, then it could splinter the strong security alliance that we have....We want the Europeans to have capabilities and strength, but not to fence off American products, of course. Or Norwegian products. Or potentially UK products. (Hutchison, 2018)

The US administration has also directly lobbied several European governments such as Austria, Belgium, the Czech Republic, and Poland (Gros-Verheyde, 2019). In early May 2019, two US undersecretaries sent a letter to High Representative Mogherini warning Europeans against possible US retaliation should the European Fund discriminate against non-EU firms. While they applauded the possibility of including third-state parties in the EDF, they criticised the conditions for such inclusion, the intellectual property rights, and the restrictions put on foreign (US) export controls.

Despite this lobbying campaign, the clauses remained. Because US lobbying intervened late in the process, member states could use the EU decision-making machinery as an excuse for being unable to change or block the proposal. Moreover, Europeans—Atlanticists and those wanting to give the EU more autonomy—explained at length that the EDF did not challenge NATO or the US. Turning the argument around, the Commission responded to the US government that, if anyone, it was the US that was protectionist. Some European voices, even in the German Conservative party, expressed doubts about the sincerity of the US critique, claiming the administration was less concerned about transatlantic unity and security than about securing access by US industry to European markets (Manson & Chazan, 2018).

5. Conclusions: Military Build-Up Act in Support of Ammunition Production but With Whom?

Does the EU’s geopolitical turn represent a concomitant shift in the types and spaces of economic interventionism towards EU-centred protectionism? Based on the economic patriotism framework, I have argued that it is not the case in armament policy, which displays continuing disagreements between Atlanticist and Europeanist visions of the EU as a political-economic space. However, this article has nevertheless shown an evolution in the form of economic patriotism. The 2009 Defence Procurement Directive reflects a compromise over liberal instruments of economic patriotism with, on the one hand, no economic discrimination in favour of insiders, and, on the other hand, a call for outsiders to open their markets. In contrast, the 2021 EDF corresponds to what is usually considered a protectionist instrument of economic patriotism, namely subsidies for

capacity-building. This evolution from liberal to protectionist economic patriotic instruments is best explained by the shared problematisation of economic and security interdependence, which created a consensus that Europeans should develop homegrown military capacities. How to do this was more contested among member states and the Commission. Economic provisions shielding the EU from the extraterritorial reach of US laws were easier to agree on than a patriotic definition of EU insiders, which clashed with Atlanticist and liberal-minded governments.

While it is too early to make definitive judgments about the impact of the war in Ukraine on the EU's role in armament production, current EU developments seem to validate expectations regarding the factors shaping the emergence and forms of EU economic patriotism in the armament sector. The risks associated with dependence on foreign actors have pushed Europeans to agree on the need to develop more military capacities with the financial support of the EU. This raised the question of how autonomous the EU should be militarily. Divergences between EU actors seeking protectionist solutions led by Commissioner Breton and more Atlanticist or liberal actors such as the European Parliament partly explained the delay in the adoption of the EU joint procurement instrument, the European Defence Industry Reinforcement Through Common Procurement Act. In March 2023, governments and the Commission agreed on a three-track solution that seeks to accommodate the various positions. Whereas the urgency of military capacity-building justified removing any economic-patriotic criteria for the use of EU funds in the short-term (Act in Support of Ammunition Production), long-term measures pertaining to joint acquisition and military ramp-up are supposed to be less open to non-European firms. Whether this will take place is uncertain, but it would constitute a notable step towards the creation of a Fortress Europe in armament, combining protectionist instruments with the EU as the main reference space.

Overall, the EU armament policy displays a dynamic comparable to other policies such as trade (T. Jacobs et al., 2023; Schmitz & Seidl, 2022) and critical minerals (Riofrancos, 2023). Driven by economic patriotic actors such as Commissioner Breton, the EU is trying to become less dependent on outsiders through a mix of policy instruments. However, this may differ across policies depending on the strength of the attachment of European policymakers to the transatlantic community and the dependence of EU firms on the US. Because of the historical role of NATO and the dominance of the US defence industry, more European autonomy in armament production is less likely than in other policies where such an idea is more politically acceptable and technically achievable. For instance, the war in Ukraine has shown that EU capacity-building in ammunitions and in vaccines, as was the case during the Covid-19 pandemic, are two different ball games. Further research needs

to investigate policy-specific variations in the Atlanticist vs. Europeanist preferences of European policymakers in a context in which US and European domestic politics may jeopardise trust among allies. Last, the recent European Economic Security Strategy testifies to the growing entanglement of economic and security logics in EU policies. Armament production shows how the EU's shift away from liberalism does not, so far, translate into EU-level protectionism. In the language of the Economic Security Strategy, the EDF relies on a mix of promotion and protection: The EDF *promotes* European firms, but only as part of a circle of insiders larger than the EU, and only protects them insofar as it insulates European decision-making from foreign interference. Far from a Fortress Europe in arms, the EDF and current initiatives reveal how the EU is trying to walk the fine line between securing EU defence industrial capacities on the one hand and cultivating the transatlantic security space on the other. Achieving both is a very delicate balancing act. Understanding what the EU will make of its economic strategy in the years to come requires going beyond dichotomies such as Atlanticism/Europeanism and liberalism/protectionism and looking at how they combine in specific policy instruments.

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Conflict of Interests

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Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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About the Author



Catherine Hoeffler is an associate professor in political science at Sciences Po Bordeaux and a visiting fellow at the Robert Schuman Centre, European University Institute.

Article

Commerce and Security Meet in the European Union’s Trade Defence Instruments

Patricia Garcia-Duran ¹, L. Johan Eliasson ^{2,*}, and Oriol Costa ^{3,4}

¹ Department of Economic History, Institutions, Policy and World Economy, University of Barcelona, Spain

² Political Science and Economics, East Stroudsburg University, USA

³ Faculty of Political Science and Sociology, Autonomous University of Barcelona, Spain

⁴ Barcelona Institute of International Studies, Spain

* Corresponding author (jeliasson@esu.edu)

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Abstract

Mercantilist policies, protectionism, Chinese and US violations of the spirit—if not always the rules—of the World Trade Organization, along with supply chain vulnerabilities, trade wars, and illegal state subsidies have all contributed to a rise in the weaponisation of commerce (using trade in response to, or to achieve, political decisions or acts) across the globe. The weaponisation and geo-politicisation of trade pose a challenge for the EU, which is poorly suited for a game of power politics. Its common commercial policy developed separately from the intergovernmental foreign and security policy. The level of exclusive EU competence differs across the two policy domains, as do decision-making processes. Drawing on work addressing ideational and instrumental levels of policy, we discuss how the EU is assessing the international environment through the ideational framework of strategic autonomy, and how this has shaped the construction of new trade defence instruments intended to protect against economic and technology-related security risks. Focusing specifically on trade defence instruments addressing security concerns, which are justified in the 2023 European Economic Security Strategy (especially in the pillar focusing on protecting against economic security risks), we show that the distinction between commercial policy and traditional security concerns is eroding.

Keywords

economic security strategy; European Union; liberal international order; security; strategic autonomy; trade instruments; trade policy

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1. Introduction

A core objective of the liberal international order (LIO) established by Europe and the US after the Second World War was separating commercial policy and security issues as much as possible, with the primary vehicle for the former being the General Agreement on Trade and Tariffs, and, since 1995, the World Trade Organization (WTO). The operating principle was non-discrimination between domestic and foreign goods (and later services) amongst members, with exceptions

for export controls for arms and dual-use goods and technologies. Defensive, retaliatory tools—predominantly tariff-based—were permitted against a country that discriminated against another member’s products, but these were mostly employed by developed economies; developing countries secured special treatment and exemptions (e.g., tariff-free market access and certain non-market exemptions). The General Agreement on Trade and Tariffs recognises the need for specific national security exemptions (WTO, 2023, Article XXI), but this was thought largely applicable only in the context of war,

and thus rarely invoked. Countries' security concerns thus largely remained the purview of foreign policy, not commercial policy.

However, the international environment has changed. Gone is the aspiringly universal version of the LIO, dominant in the 1990s and early 2000s (Buzan & Lawson, 2014). First came vigorous contestation (Costa, 2019), i.e., the emergence of a vocal opposition to some of its key tenets, both among newly influential actors and in parts of the West. Thereafter its fragmentation was accelerated by Brexit, the Trump presidency, Covid-19, and the war in Ukraine. These events gradually pushed the LIO in a more competitive, geographically fractured, security-oriented direction (Lavery & Schmid, 2021). More specifically, fragmentation of the LIO refers to a bundle of processes that range from challenges to the universality of human rights to the crisis of global governance instruments, from the bifurcation of tech to protectionist tendencies in trade policies. Fragmentation is thus "the transformation of the global rules-based order into a new global ordering architecture characterised by diversity and plurality" (Flockhart & Korosteleva, 2022, p. 466).

With this fragmentation has come mercantilist policies, protectionism, and Chinese and US violations of the spirit—if not always the rules—of WTO-centred trade, along with supply chain vulnerabilities, trade wars, and illegal state-subsidies, all of which have contributed to the rise in the weaponisation of commerce (using trade in response to political decisions or acts) across the globe. This has raised a spectrum of economic and technology-related security threats (European Commission, 2023a), posing a challenge for the EU, which is ill-suited for a game of power-political trade policy. The EU has traditionally behaved like a small power in the security field (with an associated preference for the status quo and predictability) and a great power in trade (with a corresponding appetite for grand projects; Toje, 2011). The level of exclusive EU competence differs across the two policy domains, as do decision-making processes and actor networks.

This article assesses the interaction and increasing overlap of these two rather distinct policy fields through the assessment of new trade defence instruments (TDIs), contributing to the literature on the transformation of the EU's common commercial policy and economic security. There is an emerging literature addressing the application of commercial and economic policy instruments in conjunction with instruments traditionally applied through foreign and security policies, such as sanctions (e.g., Adriaensen & Postnikov, 2022; Olsen, 2022; Schild & Schmid, in press; Schmitz & Seidl, 2023). However, there are continued calls for "a more thorough academic and intellectual debate about the intersection of economics, security, and geopolitics" (Hellendoorn, 2023). The hypothesis of this article is that there has been a rapprochement between the trade and security paths due to a common ideational framework, strate-

gic autonomy, exemplified through TDIs with security objectives. The centrality of these instruments is also emphasised in the 2023 European Economic Security Strategy (EESS), especially the second pillar, aimed at protecting against economic security risks (European Commission, 2023a).

Our analysis draws on work by Daugbjerg and Kay (2020) who distinguish between the ideational and instrumental levels of policy. A policy pathway change occurs when there is both displacement of the existing idea(s) underpinning a policy, and alternative idea(s) resulting in new instruments. This differs from policy adjustment, which is when an existing instrument is altered or recalibrated (changing the intensity of the effect of the existing instrument; Daugbjerg & Kay, 2020, p. 254). After discussing the evolution of trade policy vis-à-vis security policy in the EU, we turn to the ideational progression of strategic autonomy, from the realm of traditional foreign policy to trade. We discuss how the EU is assessing the LIO through the ideational framework of strategic autonomy, followed by a presentation of where and how the interpenetration of economics and security are manifest in new TDIs, supporting our hypothesis.

2. Trade and Security Policies in the EU

EU foreign policy comes in multiple forms, executed by different institutional actors using a variety of instruments across different regions. It can be divided into four clusters: (a) the Common Foreign and Security Policy (CFSP), (b) the Common Security and Defence Policy, (c) external action (e.g., trade, enlargement policies), and (d) internal policies with an external dimension (e.g., energy, climate, migration policies; Petri et al., 2020). Traditionally, foreign policy refers to the first and second cluster, where security is the main goal and an "inter-governmental logic" dominates, meaning that member states are in control of policy decisions (e.g., unanimity rules in Council structures), with no, or very limited, transfer of competences to the supranational EU level. The other two clusters include policies with substantial transfers of competences to the EU level, thus providing institutional powers to the European Commission and—to a limited extent on trade—the European Parliament (Petri et al., 2020).

Trade policy is one of the few policy fields in which the EU has state-like competences (Gstöhl & De Bièvre, 2018). Extensive EU trade competences were in place from the beginning of its economic integration, while a nascent intergovernmental foreign policy arrived nearly 40 years later, with the 1991 Maastricht Treaty. Trade policy was, from its inception, premised on the post-war rules-based LIO and, in line with the General Agreement on Trade and Tariffs, focused on non-discrimination. It developed its own organisational esprit de corps—based on the idea that expanding trade and commercial links was good for both economic growth and political

stability (Roberts et al., 2019)—where its activities were not easily influenced by other parts of the European political system (Bossuyt et al., 2020).

The Directorate General for Trade does not fall under the competence of the European External Action Service (EEAS), which carries out the intergovernmental CFSP. However, the Treaty on the Functioning of the European Union (TFEU) specifies that “the common commercial policy shall be included in the context of the principles and objectives of the Union’s external action” (Consolidated Version of the TFEU, 2012, Article 207(1)). Thus, the EU’s external actions must also be consistent with other policies, such as safeguarding EU values, human rights, security, sustainable development, multilateral cooperation, and “the protection of its citizens” (Consolidated Version of the TFEU, 2012, Articles 3 and 21). In other words, the EU shall combine economic interest and political values in its external actions. Yet, the TFEU does not establish priorities among these objectives and there is an institutional divide. Subsequent security and trade strategies respectively mention each other, but linkages remained rather vague (Bossuyt et al., 2013).

At the same time, the scope of EU trade policy gradually widened to cover an array of policy measures affecting regulatory affairs (e.g., coordinating standards for public health or the environment, custom valuation methods, the integration of trade in services into international economic agreements, the growing importance of intellectual property rules, public procurement, and attempts to limit ruinous subsidy races). This met some opposition and pushback from member states, who felt the Commission began encroaching on their turf of “traditional” foreign policy, for example on inbound foreign investment screening, where the Commission ultimately acquired advisory power rather than decision-making authority (discussed in Section 4). Conversely, the EU has long concluded bilateral agreements that extend beyond mere commercial purposes (especially with neighbouring and developing countries), where the objective has often been to help third parties’ development and stability (Ariel & Haftel, 2021). Yet, the security-related provisions were largely aspirational, lacking monitoring and/or enforcement.

However, the fragmentation of the LIO has spurred rethinking on whether and how EU trade policy can and should serve geopolitical goals, economic interests, and political values (European Commission, 2023a; Lumet, 2022; Petri et al., 2020; Weinhardt et al., 2022). The Commission recognises that “EU trade policy has to take into account these global trends and challenges to reflect the political ambition of a stronger Europe in the world” (European Commission, 2021a, p. 3). A stronger Europe means an EU able to act alone when necessary to defend its interests, and the 2021 EU trade strategy proposed revising and expanding TDIs in order to respond quicker to international developments, counter unfair trade practices, and safeguard its interests and values.

The 2021 trade strategy brought strategic autonomy—an ideational framework that first emerged within the intergovernmental foreign and security policy—into the realm of trade policy.

3. The Strategic Autonomy Framework

Daugbjerg and Kay (2020, p. 258) define the ideational level of a policy as the one that “refers to the basic conception of how the world is and/or ought to be.” It thus includes both a cognitive (how the world is) and a normative (how it ought to be) dimension. The former defines the nature of a policy problem and its cause, thus providing a foundation for how to address the problem. The normative dimension then defines what policy action is morally appropriate. In our case, strategic autonomy captures a recognition of a changed global trade environment where power politics dominates, as well as ideas of how to appropriately respond in order to exert influence and help restore the preferred, rules-based LIO.

The strategic autonomy narrative first emerged in the traditional foreign policy domain, before spreading into trade. We explore the amorphous concept, continuously recognising that strategic autonomy’s evolution from foreign policy and defence to trade reflects a changed international environment and the increased complexity of trade (e.g., Lavery et al., 2022; Schmitz & Seidl, 2023). A changing environment affects the capabilities needed to act autonomously and achieving such capabilities requires both a recognition of changes and a willingness to respond by developing and using new capabilities (Soifer, 2012).

The idea of strategic autonomy initially emerged in the context of French national security policy in the mid-1990s, referring to “an ability to decide and to act freely in an interdependent world” (Franke & Varma, 2019, p. 5; see also Lavery et al., 2022). European strategic autonomy was long perceived primarily as a French idea of what would constitute a stronger Europe (one less reliant on the US), but as the international environment changed the idea gained traction (Lavery et al., 2022), becoming an ideational framework for EU initiatives and action.

In 2003, the EU saw the international environment as “one of increasingly open borders,” in which “flows of trade and investment, the development of technology and the spread of democracy have brought freedom and prosperity to many people” and where “global threats, global markets and global media” required “an effective multilateral system” (Council of the European Union, 2003, p. 36). By 2016, the EU’s Global Strategy reflected a markedly different tone, where an “existential crisis, within and beyond the European Union” demanded a reassessment of strategies (EEAS, 2016, p. 7). While “a rules-based global order” centred around multilateralism remained the preferred option, the EU had to be ready to explore other options, and prioritise its own

security, since “in this fragile world, soft power is not enough” (EEAS, 2016, p. 44). More recently, the 2022 Strategic Compass conveyed an increasingly pessimistic (realist) view, describing a world of “conflicts, military build-ups and aggressions,” where interdependence can be “conflictual,” leading to “increasing attempts of economic and energy coercion” (EEAS, 2022, p. 10).

Two different external developments have driven this rethink of EU foreign policy, the result of which has been a gradual shift towards an EU foreign policy that is less premised on a predictable, rules-based international order, and more open to political discretion and explicit concerns about security. The first is the challenge to international organisations. Multilateral institutions have become less able to deliver—in terms of norm construction and enforcement—even when enforcement mechanisms exist, as is the case of the WTO (Kortunov, 2022). The Commission and the EEAS single out two factors as undermining multilateral institutions: “increasingly confrontational and unilateralist” relations between major powers and “competing visions and agendas on the global order” (European Commission, 2021b, p. 1). In such a situation, “the EU needs to become more assertive,” and more transactional if need be, because “we cannot be multilateralists alone nor only for the sake of it” (European Commission, 2021b, p. 1).

A second development undermining key tenets of EU foreign policy is the weaponisation of interdependence. In a situation in which “unprecedented levels of interdependence” coexist with “continued jockeying for power,” the capacity to “grant or deny access to networks underlies several of the most important contemporary geopolitical competitions” (Farrell & Newman, 2019, p. 43). Many of the same areas and developments driving interdependence are also terrains on which attacks between competing powers play out: “the internet, border controls, technology supply chains and [the] financial system” (Leonard, 2022, p. 4).

For the EU—itself an integration-through-law peace project—to view interdependence as a potential threat implies a big shift in its self-perceived international role. A succession of crises, such as Brexit, the Trump presidency, Covid-19, and the war in Ukraine, revealed the EU’s vulnerability associated with interdependence. These are “moments of truth” in which politics returns and displaces the “normal predominance of rules-based decisions” (Hutter & Kriesi, 2022 p. 342). Likewise, Rieker and Riddervold (2022, p. 460) find that although the EU continues to “promote and safeguard the rules-based international order,” this tends to be “overlooked when there is a widely felt perception that there is a security threat.” There is also growing support inside the EU for dirigisme, downplaying the role of market forces in sectors considered critical (Bora, 2023). These developments have shaped the conditions under which EU officials have thought about the adequacy of the EU’s approach to international politics (cf. Matthijs & Meunier, 2023; Weyand, 2023).

The European Council first referenced strategic autonomy in 2013, in reference to enhancing the strategic autonomy of the European defence industry; this was repeated by the Foreign Affairs Council in 2015 (Lavery et al., 2022, p. 60). A modest statement of wider foreign policy intentions followed in 2016, as the EU was to have the “ability to act and cooperate with international and regional partners wherever possible, while being able to operate autonomously when and where necessary” (EEAS, 2016, p. 8). By 2018, Corentin Brustlein (2018, as cited in Franke & Varma, 2019, pp. 5–6) observed that:

For Europe, being strategically autonomous requires the ability to set a vision of its role in its neighbourhood and on the world stage, to identify desirable political goals, and to craft and implement plans meant to achieve those, including through the use of military force....The question is...what benefits can be drawn from reaching higher degrees of European autonomy in the political, operational, and industrial realms.

Member states remained divided on the geography and functionality of strategic autonomy (Franke & Varma, 2019, p. 25). By 2020, the EU’s High Representative of the European Union for Foreign Affairs and Security Policy, Josep Borrell, began referencing the importance of economic security. He explained that strategic autonomy entails the ability “to act according to one’s own values and interests,” across all areas, including on “subjects of an economic and technological nature,” and for this, “the EU needs to learn to speak the language of power and have the capacity to act autonomously when and where necessary and with partners wherever possible.” (Borrell, 2020a). Thus, the need to develop autonomous capabilities now extended beyond defence and foreign policy. Seeking to reassure states fearful of hurting the transatlantic alliance, Borrell stressed that a “capable and strategically aware Europe is the best partner for the US—and also what Europe itself needs” (Borrell, 2020b). By April 2023, he emphasised how “the Commission is important for EU foreign policy. Economic security is crucial to our understanding of foreign policy, we need to include economic security as formally part of our foreign policy” (European Union, 2023).

On the Commission’s side, the idea of acting autonomously, outside of or in addition to the international institutionalised system of trade rules—that is, where the WTO is incapacitated, takes too long, or lacks authority to act—grew incrementally (Schmitz & Seidl, 2023). The 2015 trade strategy focused on free trade and managing globalisation with existing capabilities and an unaltered international system. By late 2019, the Commission began using strategic autonomy in reference to commercial policy (Damen, 2022), and by 2021 the EU’s trade strategy revealed a clear shift in discourse, underpinned by a paradigmatic pendulum swing

towards a new balance between managing globalisation (liberal) and trade-as-foreign-policy (realist; Eliasson & Garcia-Duran, 2023; Schmitz & Seidl, 2023). The focus was now on building resilience and strengthening the EU's autonomy; as a director at the Directorate General for Trade emphasised, the EU's 2021 trade strategy was a "deliberatively strategic document...on how the EU places itself in a geopolitical environment" (Amsterdam Institute for Social Science Research, 2022).

In reference to trade, strategic autonomy was prefaced with an oxymoronic "open" in order to assuage liberal-minded Northern Europeans that the EU was not pursuing protectionism; this also allowed sufficient strategic ambiguity to enable a consensus behind the concept (Gehrke, 2022; Schmitz & Seidl, 2023, pp. 5–6). The EU remains committed to pursuing market opening through trade agreements and upholding trade rules (both multilateral and unilateral) in WTO-compatible ways, but also insists that new autonomous trade instruments can help protect open and fair commercial exchange and safeguard economic interests (Lumet, 2022). The rebalancing represented through the trade strategy also signals an attempt at merging ideal-type approaches to decision-making under conditions of uncertainty and change: the principled (favouring both a rules-based trading order and improved resilience) and the pragmatic (experimenting with new instruments; Boin & Lodge, 2021).

Kuang et al. (2023) identify the EU's discourse on strategic autonomy as initially referring to action independent of the US and the transatlantic alliance, while later moving into a "muscular interpretation of 'assertiveness'" (p. 24). Assertiveness, a willingness to use available tools to strengthen and safeguard economic security, is central to strategic autonomy (European Commission, 2021d), and re-emphasised in the 2023 EESS (the latter explicitly builds on the 2021 trade strategy and related documents; European Commission, 2023a, p. 3). Economic success and security concerns now jointly occupy officials' focus as they attempt "to control, to shape, or to manipulate certain economic links in the interest of notions of economic security or national security—or, indeed, autonomy and sovereignty" (Roberts et al., 2019, as cited in Gehrke, 2022, p. 65).

In analytical terms, there has thus been a change in how the EU sees the world and what it needs to do. While the EU continues to believe that the world should be based on common rules and multilateralism (its strategic autonomy is linked to "open"), it is now more assertive and includes security concerns in all aspects of EU foreign policy, including trade. This ideational change is reflected in some of its new TDIs; instruments also justified in the EESS.

4. The New SecurityTrade Instruments

The instrumental level of a policy, as defined by Daugbjerg and Kay (2020), includes both instruments

and instrument settings (effects). The first "sets out the operational policy objectives and strategies for attaining them—the composition of policy instruments" while the second "refers to the calibration of the instruments" (Daugbjerg & Kay, 2020, p. 258). To confirm the instrumental change, we identify the creation of new EU trade policy instruments, in addition to alterations or recalibrations of existing ones; these instruments all address security concerns.

The call for new instruments grew alongside the incorporation of strategic autonomy in the trade vernacular. In 2016, the German government and business community, long hesitant to criticise China for fear of retaliation, became concerned with China's aggressive tactics when the Chinese Media Group (a state-owned firm) acquired the world-class robot company Kuka (Schild & Schmid, in press). Germany revised its investment screening regulations in 2017 and 2018, and, along with Italy and France, called for EU-level investment screening (Schild & Schmid, in press). By 2019, German business groups openly called for new instruments to deal with China's behaviour, and the French and German governments wanted a new EU industrial policy (Kalimo et al., 2023, p. 5). The Commission also recognised concerns with China (European Commission, 2019b) and the need for new tools, and included several proposals for new instruments in its 2020 communication on "a new industrial strategy for Europe."

The 2021 trade strategy (Open, Sustainable, and Assertive Trade Policy; European Commission, 2021a) is the first trade strategy where security concerns are important, but the language is carefully balanced to avoid conveying the idea that EU trade policy is (strictly) a geopolitical tool (Eliasson & Garcia-Duran, 2023), even as it acts in a world of power politics. It recognises, much like extensive academic research, that interdependence can be weaponised, and that the EU must defend its interests and values with new instruments (De Ville, 2022; Schild & Schmid, in press). The Open, Sustainable, and Assertive Trade Policy emphasises revising and expanding the EU's "toolbox as necessary to defend itself against unfair trading practices or other hostile acts" (European Commission, 2021a, p. 10).

The result is an extensive and diverse trade toolbox (Erixon et al., 2022). These instruments all—to some degree—overlap economic and security interests, with no consensus on their categorisation, as exemplified by Gehrke (2022) who divides instruments into groups according to whether they address economic distortions, economic coercion, sustainability and infrastructure, or supply resilience (cf. Jacobs et al., 2023). Meanwhile, Danzman and Meunier (in press) categorise them as either offensive or defensive, and sanctions or inducements. Taking into account our objective, we divide the TDIs (see Table 1) between those that primarily seek to manage globalisation (uphold free and fair trade, while supporting a combination of greening technology, sustainability, and unfair trade practices), and those

primarily targeting perceived security risks (economic and technological).

Both categories include TDIs which are recalibrations of old instruments and completely new instruments. We recognise, that in addition to TDIs, there are other instruments (e.g., the Green Deal, Regulation on Deforestation-Free Products, Critical Minerals Act, Digital Markets Act), forums (e.g., Trade and Technology Councils with the US and India respectively), and strategies (e.g., on global standard-setting) that all in different ways affect commercial relations with other actors. However, here we focus on the TDIs aimed at addressing security concerns. We do this for two reasons: First, we are interested in instruments that straddle trade and security; second, according to the EESS, the Commission considers these instruments part of a “holistic approach” to “protect our essential security interests” (European Commission, 2023a, p. 11).

The Open, Sustainable, and Assertive Trade Policy emphasises the importance of protecting itself from “coercive action by third countries” and “distortions caused by foreign subsidies on the EU’s internal market” (European Commission, 2021a, p. 22) while limiting the transfer of technology to third countries (European Commission, 2021a, p. 19). To this effect, export control regulations were updated, both the FSFDI and Foreign Subsidy Regulation were approved, and an Anti-Coercion Instrument (ACI) was agreed in June 2023. The first is becoming an instrument to control access to certain technology, the second a method of screening investments threatening the single market and/or security, the third entails a coordinated transfer of competences to the Commission to control foreign acquisitions of EU firms, while the last ensures shared competency with the Council. All these new instruments provide the Commission with extensive powers, further embedding EU trade practices in the logic of power politics.

The Commissioner for the Internal Market, Thierry Breton, has often emphasised that Europe is facing a technology war between the US and China; there is a new global balance of power, and the EU must respond

with greater realism to ensure its sovereignty and the EU collective security (Breton, 2022). Export controls are perhaps the most classic trade instrument available to member states, and they have traditionally controlled exports of dual-use products, that is, goods or technologies that can have both civilian and military applications, with the justification of upholding commitments to non-proliferation (Mola, 2023, p. 124). Yet, the regulation was revised in 2021 to “better address risks associated with the rapidly evolving security, technology, and trade environment with a particular focus on the exports of sensitive, emerging technologies” (European Commission, 2023a, p. 10).

While enforcement and (potential) fines remain with member states, cross-border effects are evident in that the regulation now permits a member state to implement export controls solely based on another EU state’s legislation. The EESS explains that to improve “effectiveness and efficiency” (read: prevent or reduce threats to European values and interests), the Commission will present additional reforms to export controls by the end of 2023, including restrictions or bans on the exports of “enabling and transformative” technology (European Commission, 2023a, p. 5). This will be done alongside intra-EU “promotions” (read: state aid) to develop such technology in the EU. Furthermore, the High Representative of the European Union for Foreign Affairs and Security Policy and member states “will enhance the Single Intelligence Analysis Capacity,” a member State coordinating body for sharing civil and military intelligence, to better “detect threats to EU economic security” (European Commission, 2023a, p. 6). Thus, to ensure “Europe is a player, not a playing field” (Michels, 2021, as cited in Kuang et al., 2023, p. 15), the EU is now shifting the focus from only products and services traditionally applied to national security to economic and technological security writ large.

Safeguarding European innovation and technology in sensitive areas, and, with that, security interests, also played a major role in toughening the stance on investment screening. Although foreign direct investment is

Table 1. EU trade instruments.

| For managing globalisation | To address security concerns |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| TDIs, updated in 2017 and 2018 | Framework for Screening Foreign Direct Investments (FSFDI), in force since 2020 |
| Enforcement Regulation, updated in 2021 | Foreign Subsidy Instrument, in force since July 2023 |
| Carbon Border Adjustment Mechanism, in force from October 2023 | Export Controls, updated in 2021 |
| Corporate Due Diligence, proposed in 2022, tentative agreement in 2023 | Anti-Coercion Act, trialogue agreement in June 2023 |
| International Procurement Instrument, in force since August 2022 | |

Source: Authors’ work based on European Commission (n.d.).

an EU competency, portfolio investments remain the purview of member states (Court of Justice of the European Union, 2017). The Commission initially (2012) proposed an EU-level FSFDI, but member states argued that the Commission encroached on their turf of domestic policies and security, and multiple efforts to revise the proposal floundered over the following years (Schild & Schmid, in press). Rather than exclusive competency, the adopted FSFDI (European Parliament and the Council Regulation of 19 March 2019, 2019) left the Commission with advisory and coordinating power (Sattorova, 2023).

Member states remain responsible for safeguarding their own national security interests (European Parliament and the Council Regulation of 19 March 2019, 2019, Article 1), but “the new framework places the Commission at the heart of a transnational information-sharing system” (Sattorova, 2023, p. 706). This ensures a “structured dialogue” (Lavery et al., 2022, p. 70) that allows the Commission to assess the security risks to the EU as a whole (cf. European Commission, 2019a). Now “member states should take utmost account” of the Commission’s opinion on investments affecting EU-funded projects or programs, and must justify in writing any decision that does not follow the Commission’s advice (European Parliament and the Council Regulation of 19 March 2019, 2019, Article 19). Articles 26 and 63 of the TFEU prohibit laws preventing capital movements for reasons other than security and public order, so the FSFDI cannot assess the economic costs and benefits of an investment, only its effect on security and public order (Articles 7 and 8). However, the regulation defines security in broad terms (cf. Article 4; Meunier, 2022; Sattorova, 2023, pp. 706–707). Additionally, and citing growing security concerns with technology transfers through EU firms’ outbound investments (an area unregulated at the EU level and where firms’ actions are only restricted by sanctions agreed upon by member states), the EESS justifies the Commission’s intention to propose outbound investment controls by the end of 2023 (European Commission, 2023a, p. 11).

Meunier (2022, p. 3) notes that “the success of the EU ISM [Investment Screening Mechanism] has paved the way for the subsequent creation of other commercial instruments at the border between trade and security.” The Foreign Subsidies Regulation was a complement to the FSFDI (European Commission, 2021c). Foreign subsidies may inflate and distort the price a foreign firm can pay for an acquisition or investment, or enable it to compete unfairly in public procurement bids (Luja, 2021; see also Danzman & Meunier, in press). Beyond levelling the commercial playing field, and designed with China in mind, the regulation is intended to minimise potential security risks. The Commission is provided further tools regarding foreign investment by preventing subsidised foreign entities (including state-owned or state-supported) from acquiring EU firms with sensitive technology and intellectual property that could be used against, or to exert pressure on, member states or the

EU (Danzman & Meunier, in press; European Commission, 2021c, Articles 1–6), justifications also used for the FSFDI.

The ACI is explicitly designed to deter third countries from weaponising commercial interests for the purpose of influencing political decisions. Coercion is defined as “a third country applies or threatens to apply a third-country measure affecting trade or investment in order to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a member state” (European Parliament, 2023, Article 2). Several countries’ (e.g., the US and China) use, or potential use, of economic tools for political ends provided the impetus for the instrument (cf. Gehrke, 2022, p. 71). Such concerns were further validated when China imposed import bans on certain Australian goods in response to its support for an investigation into the origin of Covid-19, and all Lithuanian goods after the country allowed Taiwan to open an official office in Vilnius (Biukovic, 2023).

The ACI addresses coercion not covered by the WTO, nor addressed by any other international organisation (Biukovic, 2023, p. 2). The instrument is “complementary to other, more structural initiatives [the Union’s Industrial Strategy of May 2020] to enhance the resilience of the Union economic and financial system to various forms of external pressure” and “shall be consistent with the Union’s overall external policy” (European Commission, 2021d, p. 2).

The ACI is justified under international public law, referring to measures affecting the core functioning of a state (Biukovic, 2023; European Parliament, 2023). However, some legal analyses indicate that the ACI would have to be justified under the WTO’s security exception (WTO, 2023, Article XXI; see also, e.g., Fernández Pons, 2022). WTO panels have twice decided that Article XXI is judiciable and not entirely self-judging; the US wants to exclude security invocations from all adjudication, while the EU rejects such unfettered exceptions (e.g., Mola, 2023, p. 121).

The EU recognises the “special nature of national security interests” but argues that many such circumstances can be assessed (Permanent Mission of the European Union to the WTO, 2023). This leaves little room for compromise on a reformed Appellate Body (Petersmann, 2023), which in turn means it is unlikely that the EU’s criteria for coercion will be challenged under a redefined WTO definition of national security. Even so, the EU continues pushing for a reformed, functioning Appellate Body, since “in a geopolitical world...[you] can’t have a rules-based system without a functioning dispute system” (Amsterdam Institute for Social Science Research, 2022).

In addition to the plethora of activities that can be deemed coercive, and the extensive list of potential retaliatory measures, the ACI also merges two different decision-making processes: intergovernmentalism and unanimity (for the CFSP) and supranationalism and exclusive competence (trade). Heretofore all decisions to use sanctions to obtain political foreign policy objectives

(such as sanctions against Russia after its 2022 invasion of Ukraine) have been adopted by unanimity under the CFSP. The Commission's initial proposal would also have tilted power over sanctions to the Commission, but member states rejected that idea. The final ACI agreement stipulates that a member state may complain about coercion to the Commission, which has four months to investigate, after which the Council has 10 weeks to decide, through an implementing act, whether coercion occurred. This decision is taken using qualified majority voting rather than unanimity, another sign of the "commercialisation of foreign policy" enhancing the Commission's power in guiding policy (Meunier, 2022, p. 9). The Union, the Commission, or member states then engage the third country in consultations, negotiations, or mediation to resolve the issue or seek compensation for damages (European Parliament, 2023, Preamble Points 21 and 22, Articles 6–7). In doing so, the Commission can use other instruments under its authority induce a cessation of coercion (Preamble Point 25). If such engagement fails, the Commission draws up trade-related countermeasures, which have to be approved by the Council through an implementing act under the examination procedure (Articles 5 and 18), unless there are imminent threats of irreparable damage, at which point the Commission can unilaterally adopt an implementing act of limited duration (Preamble Point 35). This leaves member states with de facto veto rights over the Commission's findings, thereby defining what constitutes coercion. However, states may be reluctant to question each other's claims for fear of ending up on the receiving end in the future, thus the Commission's findings will—very likely—be determinant. This—withstanding other provisions—significantly enhances executive power in an area traditionally run by member states, intertwining foreign policy and economic interests.

5. Conclusion

The EU's political purpose and institutional structure were neither intended nor configured for power politics. However, the return of power politics and the increased weaponisation of trade has forced a rethink in Europe. While at the ideational level, the EU's preference remains a rules-based, multilateral trading system, there is now an embrace of (some form of) strategic autonomy, represented at the instrumental level by new and recalibrated TDIs. As De Ville (2023, p. 3) likewise observes, "having failed to create a world in its own image [rules-based], the EU has recently reinforced an arsenal of trade defence instruments to protect itself."

There is cross-fertilisation of the EU's areas of external relations, with security concerns permeating trade and traditional foreign policy, accompanied by increased Commission powers to both protect Union interests and retaliate against threats. An EU strong enough to deter or alter another country's policies (through new TDIs, especially the ACI) could also be seen as providing a global

public good by upholding norms and limiting the application of trade restrictions in pursuit of political goals (Kalimo et al., 2023, p. 19).

In its quest for strategic autonomy, the EU has also moved closer to the American and Chinese approaches of employing trade tools and industrial policy to pursue non-commercial objectives. However, key differences remain vis-à-vis American or Chinese trade policies (Bacchus, 2022; Eliasson et al., 2023; Schild & Schmid, in press). The EU's instrumental shift has not been accompanied by a complete normative shift to *realpolitik* (Schmitz & Seidl, 2023); the primary purpose of European TDIs remains defensive, to deter not attack. This comports with De Ville et al. (2023, p. 34) who note that EU "trading rules are modified but in pursuit of internationally-accepted policy objectives," and Danzman and Meunier (in press) who characterise the EU as a reluctant geopolitical player.

Importantly, the EU's normative preference remains a return to a rules-based international trading system, which is "the cornerstone of a system which protects everyone from arbitrary discrimination" because "a fragmented trading system based on power relations will harm everybody" (Lumet, 2022; Valero, 2021). In both the Open, Sustainable, and Assertive Trade Policy and the EESS, the Commission continues to support economic openness (fair and rules-based trade and investments), and reforms to the WTO (European Commission, 2021a, 2023a).

However, Danzman and Meunier (in press) question the possibility of reconciling geoeconomic instruments (even defensive ones) with an open economy in an environment where economic interdependence and integration are viewed with suspicion. Tools aimed at "merely" managing globalisation, for example the Carbon Border Adjustment Mechanism (Table 1), have been criticised for being restrictive. China's 2023 Foreign Relations Law (aimed at countering anything deemed "detrimental to Chinese interests") was in part a response to the ACI; the US Congress is discussing an act to counter economic coercion. Both the US and China have raised the possibility of further retaliation against what they perceive as "aggressive" EU trade policies (Eliasson et al., 2023; Krukowska et al., 2023).

The EU may be less keen on geopolitics than its main competitors, but the security logic central to its quest for strategic autonomy will guide policies for the foreseeable future. The empirical implications of the EU's attempts at greater strategic autonomy will depend as much on how the Commission uses its discretionary powers in security-focused TDIs as on how the targeted entities respond—an interplay destined to be the subject of future research.

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Conflict of Interests

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About the Authors



Patricia Garcia-Duran is an associate professor at the University of Barcelona's Department of Economic History, Institutions and Policies and World Economy. She is also a researcher at the Observatory of European Foreign Policy at the Barcelona Institute of International Studies. In recent years, her work has focused on EU trade policy and the World Trade Organization. She has published in several refereed journals, including the *Journal of European Public Policy*, the *Journal of European Integration*, and the *Journal of World Trade*.



L. Johan Eliasson is a professor of political science at East Stroudsburg University and a non-resident researcher at the Observatory of European Foreign Policy at the Barcelona Institute of International Studies. His research focuses on European trade policy and transatlantic trade relations. In addition to three books, his work has appeared in journals such as the *Journal of European Public Policy*, *Journal of European Integration*, *World Economy*, *Global Policy*, and the *Journal of World Trade*.



Oriol Costa is an associate professor of international relations at the Autonomous University of Barcelona. He is also a senior research associate at the Barcelona Institute of International Studies. His research deals with EU external relations and has focused more recently on whether and how it has become more politicised and contested. He has published in journals such as the *Journal of European Public Policy*, *Comparative European Politics*, *Cooperation and Conflicts*, *Mediterranean Politics*, and *Cambridge Review of International Affairs*.

Article

Varieties of Anti-Globalism: The Italian Government’s Evolving Stance on the EU’s Investment Screening Mechanism

Antonio Calcara ¹ and Arlo Poletti ^{2,*}

¹ Department of Political Science, University of Antwerp, Belgium

² Department of Sociology and Social Research, University of Trento, Italy

* Corresponding author (arlo.poletti@unitn.it)

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Abstract

In 2017, Italy, France, and Germany jointly supported the setting up of an EU-wide investment screening mechanism to strengthen the EU’s capacity to screen and eventually block foreign investments. In a few months, however, the Italian government changed position dramatically, shifting from leading supporter to staunchest opposer of this policy initiative. Such a change of positioning was decisive in both watering down the initial proposal and moving forward with the idea of a looser mechanism coordinating national investment screening activities. This article develops an explanation of the Italian government’s changing negotiating stance. We develop an argument that stresses how two factors combined to produce this puzzling outcome. First, we stress the role of political parties as drivers of governments’ foreign economic policy choices. More specifically, we show that the preferences of the parties forming the Italian government after the 2018 general elections (the Lega Nord and the Five Star Movement) were crucial in shaping Italy’s evolving stance on this important issue. Second, we highlight the implications of the tension that exists between two different “varieties” of anti-globalism. While “self-proclaimed” anti-globalist political parties usually combine a traditional critique of globalization and opposition to further political integration in the EU, they may be forced to prioritize one over the other when they prove incompatible. In this context, we show how Italian anti-globalist parties’ choice to prioritize anti-Europeanism over anti-globalism led them to prefer strengthening domestic-level institutions to screen FDIs rather than allowing the EU to acquire new powers.

Keywords

economic security; EU; investment screening; Italy; political-economy; political parties

Issue

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1. Introduction

In February 2017, the German, French, and Italian ministers of economy (Brigitte Zypries, Michel Sapin, and Carlo Calenda) sent a public letter to the EU trade commissioner, Cecilia Malmström, to promote the creation of an investment screening mechanism at the European level that could enable the screening and eventually the blocking of foreign takeovers (Bundesministerium für Wirtschaft und Klimaschutz, 2017). In the face of the realization that rising inward FDIs originating from

non-democratic and non-security allies, such as China, pose significant political challenges, the three largest EU member states (MSs) joined ranks in supporting what Schimmelfennig (2021) defined as a strategy of “external re-bordering”: Strengthening the closure and capacity control of the EU’s external economic borders with a view to both maintaining openness in the internal market and developing the capacity to assert itself in a changing and more geo-politicized international investment landscape. In May 2017, the European Commission (2017) declared its willingness to

work toward such a pan-European investment screening framework.

However, roughly two years later, these ambitions were significantly watered down. The Regulation of the European Parliament and of the Council of 19 March 2019 (2019) established a framework that: (a) set out basic standards for investment screening, (b) created an information-sharing network between MSs, and between them and the European Commission, and (c) allowed the European Commission to issue opinions in cases in which it believes one investment threatens security and public order in one or more MSs. While such regulation represented an important first step in the process of creating an EU investment screening regime (Schill, 2019), it did not create a truly independent screening mechanism at the EU level, leaving EU MSs completely in charge of the final decision on whether or not to screen a given investment. As Chan and Meunier (2022, p. 7) argue, “the new framework falls short of a binding supranational mechanism...talking about a single screening mechanism is a misnomer....The new framework is meant to complement national mechanisms rather than replacing them or superseding them.” The adoption of the EU’s framework for screening foreign investments played a key role in stimulating the adoption and strengthening of national investment screening mechanisms across EU MSs (Bauerle Danzman & Meunier, 2021). Hence, rather than triggering a process of external re-bordering by strengthening the EU’s capacity to control its external economic borders, the initiative stimulated a process of internal re-bordering whereby EU MSs both maintained and reinforced their capacity to control inward FDI.

The evolving negotiating stance of the Italian government on the EU investment screening sheds light on this tension between external and internal EU re-bordering to navigate the geopoliticization of European trade and investment policy (Chan & Meunier, 2022; Lavery, 2023; Sandholtz & Zysman, 1989; Schimmelfennig, 2021; Schmitz & Seidl, 2023). While France and Germany remained coherent in their initial support for this policy initiative, the Italian government changed its policy stance dramatically in the two years of negotiations that led to the adoption of the EU investment screening mechanism. Indeed, one year after the joint letter was sent to the European Commission, the Italian government threatened to impose a veto during the negotiations for the adoption of such an investment regime and then abstained in the European Council vote. In a few months, the Italian government changed position dramatically, shifting from leading supporter to staunchest opposer of this policy initiative. This change of positioning was decisive in shaping the outcome of the negotiations because it weakened the power of the coalition of the MSs supporting an ambitious supranational solution and, concomitantly, strengthened the coalition of governments fearing a “Brussels power grab” (Schmitz & Seidl, 2023).

What caused the timing and content of the Italian government’s changing negotiating stance? Existing explanations are ill-equipped to account for the observed shift in the negotiating position of the Italian government. For one, much of the scholarship is on the effects of these investment screening mechanisms rather than on their causes (Dimitropoulos, 2020; Lenihan, 2018; Schill, 2019). The works that investigate the determinants of these institutions tend to develop explanations that highlight the long-term changes in the societal and cultural conditions that may make governments generally more prone to screen foreign investments. For instance, borrowing from the growing literature on mass politics and the globalization backlash (De Vries et al., 2021; Norris & Inglehart, 2019; Walter, 2021), some works suggest that the recent proliferation and tightening of FDI screening mechanisms in many advanced economies may reflect public opinion’s hostility towards particular subsets of foreign countries (Chilton et al., 2020), the preferences of organized business groups fearing foreign investors’ increased penetration of domestic markets (Bauerle Danzman, 2019), or a paradigmatic cultural shift towards a more geo-politicized foreign economic policymaking in an international environment increasingly dominated by great power rivalries (Helwig, 2022; Meunier & Nicolaidis, 2019). While all plausible, these arguments struggle to explain the sudden shift in the position of the Italian government: Economic interests, public opinion, and geoeconomic concerns can hardly have changed so dramatically in the course of a few months, causing such a short-term and dramatic change in policy stance. Finally, more specific works investigating the preferences of EU MSs on the EU investment screening mechanism have only considered the initial (supportive) position of the Italian government without taking into account subsequent changes in position (Chan & Meunier, 2022).

In this article, we develop an explanation that stresses how two factors combined to produce these puzzling outcomes. First, we stress the role of political parties as drivers of governments’ foreign economic policy choices. Differently from standard political-economy approaches conceiving of governments’ choices as a function of the preferences and patterns of political mobilization of organized societal actors (Bauerle Danzman, 2019; Chilton et al., 2020), we show that the preferences of both governing political parties crucially shaped Italy’s evolving stance on this important foreign economic policy issue. Second, we highlight the implications of the tension that exists between two different “varieties” of anti-globalism. In the European context, self-proclaimed anti-globalist political parties usually combine a traditional critique of globalization, i.e., an opposition to global market opening and a critique of European integration, i.e., an opposition to further market opening and political integration in the EU. These two varieties of anti-globalism may prove to be incompatible, and these parties may, therefore, be

forced to prioritize one anti-globalism at the expense of the other.

This can be clearly seen when externally induced pressures compel EU governments to redefine boundary configurations of the internal market. In the face of unprecedented flows of inward FDIs, EU MSs faced a choice between two strategies: strengthening the capacity to screen foreign investments at the EU or the MS level. Such a choice confronts EU MSs with a clear trade-off. A strategy of external re-bordering entailing the creation of a truly supranational investment screening mechanism would make the EU more capable of asserting itself in the changing geopolitical international investment landscape. However, it would simultaneously limit the autonomy and room for maneuver of each MS. Conversely, a strategy of internal re-bordering consisting of strengthening the screening capacity at the MS level would allow each MS to retain autonomy. However, it would be relatively less effective in strengthening border control capacities. While the former strategy is preferable from the perspective of a traditional critique of globalization, it is also incompatible with the anti-European variant of anti-globalism. In short, the co-existence of different varieties of anti-globalism generates tension as to whether externally induced pressures to redefine boundary configurations in the EU should result in external or internal re-bordering strategies. In this particular case, we show that the Italian anti-globalist parties' choice to prioritize anti-Europeanism over traditional anti-globalism led them to oppose a strategy of external re-bordering in favor of one of internal re-bordering through the strengthening of the domestic, rather than the European, capacity to screen inward FDIs. Paradoxically, therefore, the most anti-globalist government in the EU's political landscape ended up supporting a policy strategy that ultimately weakened the EU's bargaining power in investment negotiations with economically powerful countries, such as the US and China, as well as its ability to become an effective global role as a rule-maker in international investment politics.

This article makes three main contributions. First, it directly addresses one of the key research questions addressed in this thematic issue, namely, how domestic and international geopolitical dynamics affect trade and investment politics in the EU. More specifically, we highlight that party politics can play a crucial role in shaping how EU MSs define their preferences and then their negotiating stance regarding the evolution of these policy regimes. Second, this article fills a gap in the empirical literature on Italian trade, investment, and foreign policy. While most studies on the yellow-green government (yellow for the Five Star Movement and green for the Lega Nord) have focused on their ability (or inability) to take back control over national sovereignty and their negative attitudes towards globalism and the EU (Cladi & Locatelli, 2020; Coticchia, 2021; Giannetti et al., 2020; Giurlando, 2021), no study has so far stressed the implications of the existence

of different varieties of anti-globalism within that government coalition. Moreover, these arguments could be used to examine other case studies besides Italy, where self-proclaimed anti-globalist parties are in government. Third, and more generally, the article encourages the literature on globalization backlash, economic nationalism, geoeconomics, and the embryonic literature on investment screening mechanisms to focus on the different "varieties of anti-globalism" and how they impact the EU's role as an international economic actor. In a recent communication, the European Commission outlined a European Economic Security Strategy in which it explicates the need to start systematically protecting the European economy from commonly identified economic security risks arising from new geopolitical and technological realities (European Commission, 2023). Our article suggests that such a process of redefining the EU's role as an international economic actor will be crucially affected by which variety of anti-globalism becomes dominant across different EU MSs in the coming years.

The article is structured as follows. First, we outline the building blocks of our argument. Second, we discuss different sets of illustrative evidence to support it. The empirical analysis is based on an extensive reading of primary and secondary sources, complemented by interviews with Italian and European politicians and executives involved in the negotiations on the EU investment screening mechanism. We conclude by summarizing the key findings and discussing avenues for further research.

2. The Argument

Why did the Italian government's position shift dramatically in the course of a few months? Why did Italy turn from enthusiastically supporting an independent and supranational EU investment screening mechanism to strongly opposing it? In trying to make sense of this puzzling observation, we develop an explanation that combines two sets of arguments.

First, we advocate for a focus on the preferences of the various political parties that supported the Italian government throughout the period considered. Existing works highlight that many advanced democracies are experiencing a backlash against globalization through a growing popular skepticism about the merits of globalization, open trade, and investment policies (Chilton et al., 2020). As already mentioned, this line of reasoning has limited ability to account for the precise timing of the shift in negotiating position of the Italian government, particularly considering how suddenly it materialized. Moreover, given their high level of technicality, there are good reasons to be skeptical about mass politics' potential to drive specific investment screening policy choices (Bauerle Danzman, 2019). However, while public opinion itself could not have caused such a change in negotiating stance, it may have provided the background conditions for political entrepreneurs to try and capitalize on public discontent to increase their electoral

support. More specifically, we suggest that the rise of anti-globalization sentiments in the Italian public was important because it generated powerful incentives for political parties to take clear policy stances on the EU investment screening framework, an otherwise obscure policy issue. As widely noted, issue salience, which is a function of how much public opinion cares about particular policy issues, incentivizes parties to take strong positions on certain policy issues to increase their alignment with citizens and, hence, their chances of electoral success (Klüver & Spoon, 2016). The literature on investment screening mechanisms has paid little attention to the weight of national preferences in setting EU investment screening (but see Chan & Meunier, 2022), nor has it focused on analyzing the preferences of political parties on this important issue. We argue that the political preferences of the parties supporting the different coalition governments in office crucially explain why the Italian negotiating position on this key foreign economic policy initiative changed so abruptly and dramatically in just a few months. More specifically, we contend that the formation of a coalition government supported by the Lega Nord and the Five Stars Movement in 2018 was decisive in determining this sudden and marked shift away from the status quo of support for the EU investment screening mechanism.

Second, we argue that understanding how political parties' preferences translated into policy choices calls for a conceptual distinction between two different "varieties" of anti-globalism. In the European context, anti-globalism often comes in two different forms, which are usually combined. On the one hand, populist and radical-right parties tend to support traditional anti-globalist policy platforms, favoring greater market closure for both trade and investments (Poletti, 2022). In this variety, anti-globalism denotes a significant decrease in partisan or policy support for globalization that calls for a reduction of the patterns of national integration in the global economy. On the other hand, such parties are also skeptical of European integration. In this variant, anti-globalism implies support for policy initiatives that either block or weaken the EU's political, economic, and cultural integration processes (Ivaldi et al., 2017). While these two variants of anti-globalism often go hand in hand with the policy platforms of European anti-globalist parties, pursuing them simultaneously may prove difficult or, sometimes, even impossible.

Reducing EU MSs' exposure to the vagaries of globalization confronts these political parties with a choice between two possible courses of action. On the one hand, they could achieve this objective by engaging in a strategy of external re-bordering, implying the strengthening of the EU's capacity to close and control its external boundaries by delegating new competencies at the EU level. In the context of this discussion, this would imply the creation of a truly supranational mechanism for screening inward investment. On the other hand, they could do so through a strategy of internal re-bordering whereby pro-

tection from the vagaries of globalization comes in the form of a strengthened capacity to control economic borders at the level of individual MSs rather than at the level of the EU as a whole (see Schimmelfennig, 2021).

The former strategy is potentially more effective than the latter. The EU has historically been able to exercise substantial influence and act as an effective global rule-maker in global economic governance: the large size of its domestic economy conferred its huge bargaining power in international economic negotiations and enabled it to become an effective global rule-maker in global economic governance (Damro, 2012). Therefore, compared to a strategy of internal re-bordering based on the strengthening of screening capacities at the level of MSs, creating a supranational mechanism for screening inward FDIs could be expected to maximize the EU's ability to assert itself in international investment politics. At the same time, a strategy of external re-bordering implies a loss of autonomy for the MS. The strengthening of boundary control capacities at the level of the MS may make the EU less capable of weighing in international investment relations. However, it enables each MS to retain autonomy in formulating the appropriate responses to external shocks. In short, external pressures calling for boundary reconfigurations confront EU governments with a fundamental trade-off between effectiveness and autonomy: external re-bordering maximizes the former, while internal re-bordering the latter.

This discussion is relevant in this context because it highlights the importance of the conceptual distinction between different types of anti-globalism. Our discussion suggests that anti-globalist parties' stances on whether to cope with externally induced shocks through strategies of external or internal re-bordering largely depend on which variety of anti-globalism prevails within them. While traditional variants of anti-globalism should be more conducive to support for strategies of external re-bordering strengthening the EU's power in international investment politics, anti-European variants of anti-globalism should trigger greater support for strategies of internal re-bordering granting MSs more autonomy in coping with globalization-induced economic pressures. These two strategies can often be incompatible since the strengthening of internal border control capacity tends to weaken the prospects for successful external re-bordering and vice versa.

How European anti-globalist parties translate their policy preferences into policy choices can, therefore, be conceived as a function of how political contingencies lead them to prioritize these two different forms of anti-globalism at particular points in time. Where traditional anti-globalism prevails, we should expect it to produce support for strategies of external re-bordering that increase the EU's ability to close and control access to its economic space. In the case anti-Europeanism predominates, we should anticipate it to stimulate support for strategies of external re-bordering, resurrecting barriers to economic exchange between the MSs. In this context,

we contend that the paradoxical observation that the opposition towards the EU investment screening regime by two eminently anti-globalist parties, the Lega Nord and the Five Star Movement, can be explained by the fact that they were united around the common denominator of anti-Europeanism and, hence, prioritized it over traditional anti-globalism. In short, facing a choice of external and internal re-bordering, these parties prioritized the latter, choosing to strengthen the domestic mechanism for screening inward FDIs rather than supporting the creation of an EU-wide screening mechanism. While this choice had the obvious drawback of weakening the EU's capacity to control inward FDIs, the availability of a domestic mechanism for the screening of inward FDIs reassured the Italian government that it could avoid ceding new powers and sovereignty to Brussels without remaining powerless in the context of a growingly geopoliticized international investment landscape.

3. Empirical Illustration

In line with the logic of outcome-centric research designs (Gschwend & Schimmelfennig, 2007), we are primarily interested in providing an in-depth, within-case study of the factors and causal processes that explain the timing and content of Italy's evolving negotiating position on the EU regime for screening inward FDIs. To do so, we combine evidence from primary and secondary sources with evidence collected through nine interviews with selected Italian and European stakeholders to show that: (a) changes in the coalition of parties supporting the Italian government following the 2018 general election plausibly account for the sudden change in Italy's negotiating stance, (b) the "yellow-green" governments prioritized anti-Europeanism over traditional anti-globalism, and (c) the availability of flexible mechanisms for screening inward FDIs at the domestic level crucially mediated how parties' political preferences were translated into policy choices.

3.1. Shifting Negotiating Stance: The Role of Changing Coalition Governments and Political Parties' Preferences

In February 2017, the German, French, and Italian ministers of economy sent a letter to the EU Trade Commissioner Cecilia Malmström, stating that they were "worried about the lack of reciprocity and about a possible sell-out of European expertise, which we are currently unable to combat with effective instruments" (Bundesministerium für Wirtschaft und Klimaschutz, 2017, p. 1). The idea was to promote the institutionalization of an EU-wide investment screening mechanism aiming:

To prevent any damage to the economy through one-sided, strategic direct investment made by foreign buyers in areas sensitive to security or industrial policy, and to ensure reciprocity...with a European solu-

tion, which would then similarly ensure fair competitive conditions across the EU. (Bundesministerium für Wirtschaft und Klimaschutz, 2017, p. 1)

The proposal to establish an EU supranational framework for FDIs was strongly driven by the political agenda of the newly elected French President Macron for a "Europe that protects" and was warmly embraced by Germany and Italy. Since the president of the European Commission, Juncker, supported the initiative, in May 2017, the European Commission formalized in a strategy document its willingness to work toward a pan-European investment screening framework (European Commission, 2017). However, this initiative sparked considerable debate in the June 2017 European Council, with several MSs expressing concerns about its desirability (Chan & Meunier, 2022, pp. 525–528). After all, the idea of a European investment screening had already been advanced in 2013, but without success, given the reluctance of some European states to cede sovereignty in the management of investment policy.

The constellation of MSs' preferences revolved around three broad sets of positions. First, Germany and the Nordic EU MSs were strongly in favor of a supranational solution but feared that an EU investment screening regime might open the door for a protectionist turn in EU trade and investment policies. Second, France and Italy also strongly supported a strong mechanism at the EU level but pushed for a broad interpretation of the rule to potentially accommodate autonomous industrial domestic policy initiatives. Third, several smaller and mid-EU MSs were generally skeptical about the initiative because they feared it might pave the way for an additional power grab from Brussels. In this phase, therefore, Italy clearly positioned itself as a strong supporter of a strong, supranational solution in the context of the discussion about the emerging European investment screening regime (interview with an official of the European Commission, 2022).

Things changed dramatically as a result of the general political elections held in Italy on 4 March 2018. The Italian political system is characterized by a multi-party system and a mixed electoral system (a mix of proportional and majoritarian), which makes it necessary to create government coalitions (Garzia, 2019). In the 2018 elections, two of the most anti-globalist parties in the European landscape (the Lega Nord and the Five Stars movement) obtained spectacular results, 17% and 33%, respectively, which led to the formation of the so-called "yellow-green" government on 1 June 2018. This government coalition represented a complete political novelty in the Italian political landscape. For the first time, an Italian government had formed without comprising any of the traditional moderate, pro-European parties that composed the fragmented Italian party system. The formation of a government composed exclusively of self-proclaimed anti-globalist parties caused a sudden change in the policy position of the Italian government

in the negotiating process concerning the EU investment screening regime. Indeed, with the formation of the new government, Italy switched from being an enthusiastic supporter of the policy initiative to threatening to veto it.

Their change of position not only became immediately visible in the negotiating process, but it had significant consequences too. It created the perception that Italy had begun to side with the EU MSs that had been particularly sensitive to China's talking points, such as Hungary, and that this new configuration preference could put the entire enterprise at risk (interview with a member of the European Parliament, 2022). As a result, the group of MSs that had been more strongly supportive of establishing an independent EU-level screening mechanism decided to significantly water down the initial proposal and move forward with the idea of a looser mechanism mostly aimed at coordinating national investment screening activities. In the end, faced with the impossibility of blocking the initiative and a far less ambitious proposal, Italy decided to abstain. What is interesting to note is that between February 2017, when Italy proposed an EU-wide investment screening mechanism together with France and Germany, and March 2018, when it became its main opponent, there were no changes in the preferences of societal actors or of other political parties. Societal actors, such as large Italian companies and their industry associations, have always supported a common framework for European investment screening (Confindustria, 2019). The mainstream Italian political parties had consistently supported an EU-wide investment screening mechanism in the years preceding the 2018 general elections. The "technocratic" government of Mario Monti (2011–2013) formed by all Italian mainstream parties extended the scope of Italian investment review while calling for the setting up of an EU-wide screening mechanism. For instance, in 2010, Monti himself wrote a report to the then Commission President José Manuel Barroso, warning that "the growth of state-sponsored investment is also fuelling concerns about excessive exposure of EU assets to foreign ownership in sectors that have been liberalized" (Monti, 2010, p. 89). The subsequent coalition governments by Letta, Renzi, and Gentiloni and guided by the Democratic Party and Forza Italia, also strongly supported the idea of a European EU investment screening and mandated the minister of economic development, Carlo Calenda, to take this file to the European level (Interview with a member of the Italian presidency of the Council of Ministers, 2022). In short, it seems eminently plausible that the cause of the sudden shift in Italy's negotiating position is to be found in the political motives of the parties that formed the government following the March 2018 elections.

3.2. *Varieties of Anti-Globalism in the Yellow-Green Cabinet*

The discussion developed in Section 3.1 clearly suggests that the change in the coalition of parties supporting the

government impacted the timing of Italy's evolving negotiating position. It remains puzzling, however, why such an anti-globalist government opposed the creation of a policy instrument that could have effectively strengthened the EU's ability to control inward FDIs. After all, such a strategy of external re-bordering, while strengthening the possibilities to limit inward FDIs and increasing bargaining power in trade and investment negotiations with economically powerful countries such as the US and China, was consistent with the anti-globalist orientation of the new government. It seems highly plausible that the root cause of this (apparent) paradox lies in the ways in which different "varieties" of anti-globalism were prioritized by the two parties forming the "yellow-green" coalition government.

The political pact between the two parties was based on a vision of "sovereigntist foreign policy," which aspired to take control over all the most important economic, industrial, and political decisions. The policy platforms of these two parties combined two different "varieties" of anti-globalism. Both parties' policy platforms were characterized by a deep hostility towards the EU, portrayed as "a supranational institution lacking democratic legitimacy and ruled by unelected euro-bureaucrats" (Nelli Feroci, 2019, p. 1). The Five Star Movement highlighted the negative externalities generated by the austerity policies promoted by Brussels, while Salvini's Lega suggested a review of all the European treaties limiting state sovereignty. The two parties also held ambiguous positions on the possibility of Italy leaving the Euro and returning to a national currency.

At the same time, both parties upheld traditional anti-globalist positions. The Five Star Movement consistently criticized global financial and economic integration, focusing their criticism particularly on the economic and financial governance of the World Bank and the International Monetary Fund (Pirro & van Kessel, 2018). The Lega Nord criticized large capitalist and transnational corporations, denouncing "the drowning of globalism in a world dominated by large multinationals" (Ivaldi et al., 2017, p. 360). In particular, during the financial crisis, the Lega Nord blamed unregulated "financial globalization promoted and carried out by the world of high finance." Interestingly, the Lega's prognosis was to keep companies alive, partly through protectionist measures introduced at the EU level (Lega, 2009, as cited in Pirro & van Kessel, 2018, p. 332).

A number of political contingencies led these two parties to prioritize anti-Europeanism. Most notably, both parties prioritized anti-Europeanism to avoid endangering their relations with foreign powers. Indeed, the marked anti-European stance of the two governing parties led the yellow-green government to find new geopolitical referents outside Europe. Italy signed a Memorandum of Understanding and became an official member of China's Belt and Road Initiative on 23 March 2019. The announcement came during President Xi Jinping's state visit to Rome, making Italy the first G7

member to formally adhere to China's signature trade and connectivity project. This initiative was mostly motivated by the need to attract Chinese foreign investment (Ministero degli Affari Esteri e della Cooperazione Internazionale, 2018). Some have interpreted the pro-Chinese turn of the yellow-green government as a tactical signal to France and Germany: Being a privileged partner of China could provide Italy with negotiating leverage over other issues. In other words, this move has been considered an act of playing by "the playbook of populists in soft balancing," whereby the strengthening of links with external powers is used to contest ideological rivals (Giurlando, 2021, p. 6). Others have pointed to the presence of political entrepreneurs within the government, especially Minister Tria and Undersecretary Geraci, who were vocal in pushing for a partnership with Beijing. Others contend that as early as 2015 (well before the yellow-green government), Italy's diplomatic apparatus was already heavily involved in courting Chinese investment and that Euro-Atlantic governments were the first to actually open up to Chinese investment in infrastructure and strategic companies (Pugliese et al., 2022; see also Andornino, 2023). In any case, proximity to China is seen by many as the main reason why the Five Star Movement favored the vote of abstention when the EU-wide FDI screening mechanism was voted in 2019. For instance, Undersecretary Geraci confirmed in an interview that Italy was against an investment screening mechanism at the EU level and declared that he would prefer to sell part of the national champion Alitalia to Chinese investors rather than to Germany's Lufthansa (Follain & Mathieson, 2018).

The Lega Nord also prioritized anti-Europeanism but for different reasons. The Lega Nord, in particular the powerful Under-Secretary of State of the Presidency of the Council of Ministers Giancarlo Giorgetti, raised two sets of concerns during negotiations. On the one hand, and in line with the anti-European and sovereignist orientation of the Lega Nord, he feared that such a policy initiative could strengthen the EU's ability to have a voice in Italy's decisions on inward investments. On the other hand, he was concerned that an EU-level investment screening mechanism could tighten control not only on Chinese but also on US investment. In short, within the Lega Nord, there were significant concerns that an investment screening regime at the EU level could also endanger transatlantic investment relations (interview with a member of the Italian presidency of the Council of Ministers, 2022). It is worth noting that US pressure groups at the time were suggesting that Italy, a country with a declining direct foreign investment base, should adopt policies to open up to investment rather than close it down, also to have a comparative advantage over European allies such as France (American Chamber of Commerce in Italy, 2019). More generally, there was a perception that the US preferred EU MSs to equip themselves with discretionary instruments that would simultaneously enable blocking access for Chinese

companies while allowing access for US companies to continue operating in the EU market. Given the preferences of these two parties, it is not surprising that during all five rounds of negotiations, the Italian government strongly pushed for explicitly recognizing the exclusive competence of the MSs to establish national investment screening mechanisms (Dipartimento per le Informazioni della Sicurezza, 2019).

The position of the yellow-green government on the EU-wide investment screening mechanism thus seems to have been crucially defined by the fact that the Lega Nord and the Five Star Movement converged around the common denominator of anti-Europeanism. This was by no means obvious. For instance, another strongly anti-globalist party such as Fratelli d'Italia (Brothers of Italy), at the time considered the creation of a strong EU investment review mechanism as a desirable protective tool against the vulnerabilities of globalization (Senato della Repubblica, 2018). One important reason why the Lega Nord and the Five Star Movement prioritized anti-Europeanism over traditional anti-globalism was that these two parties did not want to endanger relations with their respective (perceived) foreign patrons. The creation of a supranational European screening mechanism would not only imply a "Brussels power grab," which these two parties clearly opposed, but would also open the way for the imposition of restrictions on inward FDIs at the EU level against both China, with which the Five Star Movement was keen to further develop economic relations, and the US, with which the Lega Nord was trying to ingratiate itself. The convergence around the common denominator of anti-Europeanism of the two parties supporting the yellow-green government created the political conditions for the Italian government's sudden shift towards a strategy of internal re-bordering.

3.3. *The Selective Use of Golden Power to Screen FDIs*

In addition to the importance of the two parties' hostility towards European integration and concerns about relations with foreign powers, another factor played a key role in shaping the Italian government's decision to oppose the creation of an EU-wide investment screening mechanism: the availability of the alternative of strengthening investment screening at the domestic level. More specifically, the position of the Italian government was influenced by the fact that it could pursue a strategy of internal-re-bordering based on the use of "golden power" mechanisms to selectively screen uncontrolled flows of FDIs endangering strategic sectors.

In 2012, the Italian government issued a law decree on "golden power," which grants the government special powers concerning companies owning or controlling "strategic assets" in specified industries, namely defense and national security and energy, transport, and telecommunications. If the government believes the national interest is threatened, it can veto decisions, block investments, and impose special conditions (Italian Republic,

2012). In addition, it can issue “soft” and non-legally binding considerations. This golden power is a mechanism that leaves a wide discretion to the government, allowing it to decide on a case-to-case basis whether to allow or block a certain transaction. The government can also decide by decree which activities are considered strategic for national security and defense. The Italian golden power regime has been sanctioned by several rulings of the European Court of Justice precisely because of the discretionary nature of its exercise and the lack of precise requirements for its application.

At the very same time that Italy was negotiating in Brussels for the establishment of an EU-wide investment screening mechanism, the government extended the golden power to “sectors of high technological intensity” in October 2017 and to “assets and relationships concerning 5G networks and related technologies” in March 2019. The case of 5G is a paradigmatic example of the possibility of using the flexible golden power mechanism to circumvent different political preferences and to deal with the presence of “varieties of anti-globalism.” Between 2017 and 2019, the Italian government was under pressure from the US to block Huawei’s entry into 5G networks. Following the suggestion of the intelligence services, the Italian Parliamentary Committee for Security supported the US position (Italian Parliamentary Committee for Security, 2019). However, the yellow-green government had signed the Memorandum of Understanding with China and did not want to give in to US pressure.

The government has managed to strike a delicate political compromise by simply extending the golden power regime to the 5G sector. This allows the government to use the golden power mechanism to selectively block unwanted foreign investment in this sector. The government is, therefore, not forced to step in to block investments by Chinese companies (such as Huawei or ZTE) in 5G ex-ante (as in France or the UK), but it may eventually do so on a case-by-case basis (Calcara, 2022). The extension of golden power to 5G simultaneously reassured Beijing that its companies would not be excluded ex-ante but also reassured its US and European allies that they would be able to block Chinese investments if necessary. The flexibility of the golden power regime was an additional factor that allowed the Italian government to pursue a strategy of internal re-bordering at the expense of external re-bordering at the European level.

During the pandemic emergency, the Italian government institutionalized a special regime that established the obligation for both EU and non-EU investors to notify the Italian authorities of any direct or indirect acquisition of a controlling interest and for non-EU investors only of any direct or indirect acquisition of a non-controlling minority interest (acquisition of at least 10% of the share capital or 10% of the voting rights and exceeding the following thresholds 15%, 20%, 25%, and 50%), provided that the value of the investment exceeds €1 million.

Political discretion in the actual employment of the golden power is also evidenced by the activism of the Draghi government, which has fully returned to the Euro-Atlanticist fold to block (on a case-to-case basis) the entry of Chinese companies into strategic sectors, such as their blocking of the deal between Fastweb and Huawei regarding 5G (Bechis & Lanzavecchia, 2021). The coalition government formed by the Brothers of Italy, Lega, and Forza Italia, which emerged from the 2022 elections, will continue to use the golden power mechanism to screen Chinese control of historic Italian companies considered strategic (e.g., Pirelli) but also potentially to deter European (especially French) investment groups from controlling strategic companies in the telecommunications sector, such as TIM (Italian Government Presidency of the Council of Ministers, 2023). The possibility of screening investments in strategic sectors on a case-by-case basis thus facilitated the yellow-green government’s decision to pursue a strategy of internal re-bordering by reassuring it that, despite the absence of an EU-wide screening mechanism, Italy would not remain powerless in the face of undesired foreign investments.

4. Conclusions

In seeking to explain why Italy turned from being one of the main supporters of a supranational investment screening mechanism at the EU level into one of its main opponents in the space of just a few months, we developed two complementary arguments. First, we stressed the crucial role played by the political preferences of the parties that formed the coalition governments after the 2018 general elections, i.e., the Five Star Movement and the Lega Nord. Second and relatedly, we suggested that the content of their position was influenced by their prioritization of anti-Europeanism over traditional anti-globalism. This latter element was itself a consequence of these parties’ fears of a “Brussels power grab,” their desire to maintain close relations with their perceived foreign patrons, and the availability of domestic institutions that reassured them that they would not remain powerless in the face of an increasingly geopoliticized international investment landscape.

While our primary objective was to explain the evolution of the Italian government’s stance on negotiations concerning the EU investment screening regime, we believe our arguments and findings could also shed important light on ongoing debates about the future of European integration. As Schimmelfennig (2021, p. 314) aptly argued, “Whether external re-bordering will succeed and help consolidate the EU, or disintegration tendencies will prevail is an eminent political question for the future of European integration.” The European Commission is well aware that this is probably the most pressing political issue in the face of the risks arising from new geopolitical and technological realities. Its recently released European Economic Security Strategy states:

A common and coordinated EU action across policies, through cooperation between the EU and the member states, is essential for the Union's economic security. The alternative to an EU approach to economic security is that our partners will pick and choose alliances, while less well-intentioned players will seek to divide and conquer....The key to success will be to act in unity. (European Commission, 2023, p. 14)

While it is generally presumed that the growing political importance of anti-globalist parties in many EU MSs does not bode well for the EU's ability to put in place effective strategies for external re-bordering (Poletti, 2023), our contribution underscores the importance of acquiring a more systematic understanding of the mechanisms linking anti-globalization sentiments and policy outcomes at the EU level. In the case we considered in this article; indeed, the bond between the Lega Nord and the Five Star Movement around the common denominator of anti-Europeanism led the Italian government to support a strategy of internal, rather than external, re-bordering in the context of negotiations for the establishment of a new investment screening regime in the EU. However, as we argued, traditional variants of anti-globalism need not necessarily weaken the prospects of a more unified EU in the face of a more geo-politicized international economic landscape. Whether anti-globalism will strengthen or weaken the EU's ability to act as a unitary actor in a more turbulent international economic environment crucially depends on the variety of anti-globalism that comes to dominate the narratives and political choices of anti-globalist parties in the next few years.

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Conflict of Interests

The authors declare no conflict of interest.

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About the Authors



Antonio Calcara is a Flanders Research Foundation postdoctoral fellowship at the Department of Political Science at the University of Antwerp. He has been awarded an ERC Starting Grant (2024–2029) for his project on Competition in the Digital Age: Geopolitics and Technology in the XXI Century (CODE). His research lies at the intersection of international security and international political economy.



Arlo Poletti has been an associate professor of international political economy at the Department of Sociology and Social Research of the University of Trento since 2016. He obtained his PhD at the University of Bologna, was a post-doctoral researcher at the University of Antwerp, and held positions as an assistant professor at the LUISS Guido Carli and the University of Bologna. His research focuses on political-economy globalization with particular emphasis on the politics of trade policymaking, interest group politics, and individual-level political behavior.

Article

Free Trade-Populism and Nativist-Protectionism: Trade Policy and the Sweden Democrats

Alexander Dannerhäll

Oslo Business School, Oslo Metropolitan University, Norway; alexander.dannerhall@oslomet.no

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Abstract

The past three decades have seen the entry and increased influence of radical right parties into the European party landscape. These parties harness disaffection with the status quo by appealing to nativist or authoritarian tendencies in the electorate. Their policies often center around the protection of the “common man” from foreign or elite forces (particularly, cultural and economic globalization) and their emergence has been linked to decreasing support for globalization—the so-called “globalization backlash.” Several authors note that although radical right parties advocate economic protectionism to attract voters, who are disaffected by globalization, they say little about how this is manifested in advocacy of concrete policy measures. This speaks to the need for more systematic study of the trade policies of radical right parties. This article studies the Swedish radical right party, the Sweden Democrats (ostensibly free traders), to advance an argument based on the core ideology of radical right parties, nativism, and populism. In doing so, the article contributes to the literature that stresses cultural rather than economic foundations for opposition to globalization. Moreover, this article widens the definition of protectionism from that germane to the literature on radical right parties to include non-tariff barriers to trade (in addition to tariffs and quotas), providing a more up-to-date and multifaceted account of the range of trade policy instruments that radical right parties may advocate. I find that populism inspires advocacy of liberal trade policies, while nativism inspires protectionist trade policies. Protectionism almost exclusively consists of non-tariff barriers.

Keywords

nativism; non-tariff trade barriers; populism; radical right parties; trade policy

Issue

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1. Introduction

Several studies find that Western radical right parties (RRPs) oppose free trade and advocate protectionist policies in their appeal to voters (Burgoon & Schakel, 2022; Norris, 2005; Zaslove, 2008). A case that appears to break with this tendency is the Sweden Democrats (SD). Protectionism—defined as the advocacy of tariffs, quotas, and subsidies—has almost no salience in the election manifestos of the SD (Lehmann et al., 2022), and they consistently declare support for free trade and opposition to protectionism, illustrated by the quote below from the legislative proposal Trade Policy for Growth:

We are, in essence, positive to free trade and global trade deals as an entirety. Our conviction is that Sweden should promote, through the EU and other international fora such as the WTO, open and free trade and work against protectionism. (SD, 2022a, p. 3)

Does the free-trade rhetoric of the SD mean that they are not protectionist? If not, how are they protectionist and how does protectionism fit with their advocacy of free trade? To answer these questions, this article studies the trade policies of the SD between 2010 and 2022, using content analysis of their party manifesto and

parliamentary proposals. After a period of ostracization, recent electoral successes offered them significant leverage to impact government policy (Aylott & Bolin, 2023). Sweden has historically been a stalwart of open markets and often pushes for free trade in international organizations, such as the EU and WTO (e.g., Jakobsson, 2007), which makes increased understanding of the trade policy of the SD important to understand the development of Nordic and European trade policy.

The emergence and growth of RRP in the European party landscape have received much scholarly attention over the past two decades (e.g., De Vries et al., 2021; Hooghe & Marks, 2018; Kriesi et al., 2006; Minkenberg, 2001; Mudde, 2007; Rydgren, 2007; Zaslove, 2008). Their rise in political prominence has been attributed to disaffection with globalization (e.g., Burgoon & Schakel, 2022; Colantone & Stanig, 2019; De Vries et al., 2021; Mudde, 2007). The elections of Donald Trump in the US, Giorgia Meloni in Italy, and Brexit are examples of how radical-right politicians take issue ownership of globalization to reach electoral success. Together with radical-left parties, RRP have emerged as viable alternatives to mainstream parties in appealing to voters disaffected by globalization and as drivers of the contestation of globalization (Bisbee et al., 2020; Burgoon & Schakel, 2022; De Vries et al., 2021). However, RRP are distinct from radical left parties in that their opposition to globalization is made on cultural grounds rather than economic (Burgoon & Schakel, 2022; De Vries et al., 2021; Kriesi et al., 2006; Mudde, 2007). This has earned them the title of culturally protectionist (Kriesi et al., 2006, p. 928; Norris, 2005). However, the literature has yet to provide a systematic answer to how it manifests into advocacy of concrete policy instruments.

Even though several authors note opposition to free trade as a characteristic of RRP policies, it has received less empirical attention than immigration, EU-integration, or composite measures of international cooperation (e.g., Burgoon, 2009; Burgoon & Schakel, 2022; De Vries et al., 2021; Hooghe & Marks, 2018; Kriesi et al., 2006). This article feeds into an emerging literature that instead seeks to understand RRP-positioning on free trade (Colantone & Stanig, 2019; Milner, 2021; Ostermann & Stahl, 2022; Polk & Rosén, 2023). While making valuable contributions to our understanding of RRP opposition to trade, the case of the SD suggests the need for a more careful empirical examination of how RRP use trade policy to mobilize voters. The first step is to acknowledge that many ways to be protectionist do not involve advocacy of tariffs and quotas. Modern trade negotiations focus less on tariff and quota reduction than on removing trade restrictions in domestic legislation—the non-tariff barriers to trade (NTB; e.g., Young, 2017). Case studies of TTIP and CETA find that RRP tend to support rule-of-origin and oppose regulatory harmonization (e.g., Rone, 2018), suggesting that focusing on tariffs and quotas alone risks obscuring the full range of trade-related instruments that RRP advocate to restrict

free trade. Consequently, this article considers NTBs in addition to tariffs and quotas.

Previous studies argue that the core ideology of RRP, nativism, and populism (developed by Mudde, 2007) inform RRP economic policy but do not consider how these dimensions carry over to trade policy nor how they translate into advocacy of trade-policy instruments. My contribution to the literature, therefore, is twofold. In addition to considering NTBs, I complement previous research on the ideological underpinnings of RRP's opposition to globalization. This includes complementing the debate on the emergence of the “transnational cleavage” (Hooghe & Marks, 2018) by considering opposition to trade, where previous research has focused mainly on European integration and immigration, as part of the general pattern of opposition to globalization among RRP. This article builds on the work of Otjes et al. (2018), Ennser-Jedenastik (2016), and Ivaldi and Mazzoleni (2020) on the economic policies of RRP by developing a framework uniquely adapted for trade policy, comprising two dimensions, nativism and populism. The populist dimension relates to the domain of international trade as captured by the interests of large or geopolitically powerful nations and multinational firms at the expense of low-skilled workers and small-business owners. The nativist dimension signifies how trade policy is used to protect the native population from the influence of foreign ideas and cultural expression—“cultural competition,” as Kriesi et al. (2006, p. 928) put it.

I find that the SD promotes both protectionist and liberal trade policies. Advocacy of protectionist policies is grounded in protecting ethnonationalist notions of Swedish culture, history, and identity, while liberalization emerges as a response to elite co-optation of the international trading system.

2. RRP and Globalization

A contributing factor to the emergence of RRP as competitors in Western party systems is the deepening of globalization in the past three decades. International exchange of goods, services, capital, and labor—while beneficial in the aggregate—has made certain groups the “losers of globalization” and made globalization increasingly contested (e.g., Bisbee et al., 2020; Colantone & Stanig, 2019; De Vries et al., 2021; Hooghe & Marks, 2018; Kriesi et al., 2006). A convergence toward pro-globalization positions of mainstream left and right parties (Milner & Judkins, 2004; Mudde, 2007, p. 197), conflicting positions on economic and cultural globalization (Kriesi et al., 2006), and imperatives of international cooperation (Mudde & Rovira Kaltwasser, 2018, p. 1678), have enabled radical parties on the right and left to attract voters who are critical of globalization (Bisbee et al., 2020; De Vries et al., 2021; Kriesi et al., 2006). However, where radical parties on the left oppose globalization on economic grounds (March & Mudde, 2005), RRP oppose globalization on cultural grounds

(Colantone & Stanig, 2019; De Vries et al., 2021; Kriesi et al., 2006; Polk & Rosén, 2023). RRP are more effective at attracting voters on the sociocultural rather than the socioeconomic dimension (Rydgren, 2018, p. 7). Hence, rather than emphasizing increases in inequality, globalization is opposed because it threatens the national ways of life and traditional hierarchical principles of societal organization since it restricts the sovereignty of the people (Mudde, 2007; Zaslove, 2008).

While some authors emphasize immigration and European integration as the chief sources of voter mobilization against globalization for RRP (e.g., Mudde, 2007; Rydgren, 2018), others identify opposition to free trade alongside European integration and immigration (Burgoon, 2009; Burgoon & Schakel, 2022; De Vries et al., 2021; Hooghe & Marks, 2018; Kriesi et al., 2006) but do not engage with free trade in their empirical analysis. For example, in their seminal article on the changing cleavage structures of Western party competition, Hooghe and Marks (2018) note trade skepticism together with opposition to European integration and immigration as characteristics of the nationalist pole of the transnational cleavage without explicitly analyzing trade. However, while there has emerged literature that considers RRP positioning on free trade (Colantone & Stanig, 2019; Milner, 2021; Ostermann & Stahl, 2022; Polk & Rosén, 2023; Rone, 2018), few of these studies, with some exceptions (Ostermann & Stahl, 2022; Polk & Rosén, 2023), engage thoroughly with the ideological underpinnings of RRP trade policies. Furthermore, how they manifest into concrete policy instruments is largely undeveloped. Studying the ideological motivations and trade policies of RRP is, then, an important step to understanding how trade plays a part in the general increase of politicization of globalization (e.g., Walter, 2021).

Even if some research has been done, most do not consider the complexity surrounding the supply side of trade politics. First, previous research tends to consider composite measures of international cooperation (Burgoon, 2009; Burgoon & Schakel, 2022; Colantone & Stanig, 2019; for exceptions see Ostermann & Stahl, 2022; Rone, 2018) rather than trade itself. Second, it does not define in sufficient detail which trade-policy instruments RRP advocate (Burgoon, 2009; Burgoon & Schakel, 2022; De Vries et al., 2021; Otjes et al., 2018; Norris, 2005; van der Waal & de Koster, 2018; Zaslove, 2008). Studies by Burgoon (2009), Burgoon and Schakel (2022), and Colantone and Stanig (2019) use a variable called “net autarky,” composing positions on international cooperation and protectionism collected from comparative manifesto project data. Apart from the problem of disentangling protectionist statements from statements on international cooperation, the definition of protectionism from the Comparative Manifesto Project-codebook does not distinguish between tariffs, quotas, or NTBs. In the past 30 years or so, international trade negotiations have moved away from tariff and quota reduction to focus more on removing domestic

regulations that restrict trade (e.g., Young, 2017). Case studies of TTIP and CETA show RRP favoring NTBs, such as rules-of-origin (e.g., Rone, 2018), which indicates that we may fail to capture the range of trade-policy instruments that RRP may advance as well as a central source of trade-policy conflict.

The choice between traditional trade policies (tariffs and quotas) and NTBs has implications for electoral strategy. The politically contested and technical nature of NTBs may make it less straightforward to declare them protectionist—and thus illegitimate (Winslett, 2020)—than tariffs and quotas, whose use may be more strictly constrained by international trade agreements (Milner & Judkins, 2004, p. 103). This allows NTBs to be exploited to introduce trade-restrictive policies that may be more acceptable to the public than traditional trade policies. In addition, while tariffs/quotas are “blunt” in the sense that they apply evenly across industries, NTBs can be used to target specific firms or voter groups (McGillivray, 2004, p. 161; Rickard, 2012, p. 779). Consequently, they allow for greater precision, for example, in proposing that product regulation only applies to certain culturally-sensitive products, segments of workers, or firms, without harming an entire industry—which may be worthy of protection—for example, rules prohibiting halal/kosher-butchered. Conversely, protection for products with cultural significance may be carved out without granting benefits to other less-deserving producer groups or products.

3. The Core Ideology of RRP Trade-Policy

Building on Mudde’s (2007) core ideology of RRP and its applications for economic policy (Ivaldi & Mazzoleni, 2020; Otjes et al., 2018), I outline two dimensions, “trade policy-populism” and “trade policy-nativism.” In the former, international economic cooperation is construed as a competition between the interests of large/or politically powerful nations and multinational companies (MNCs), smaller nations, and small and medium-sized enterprises (SME). This struggle inspires efforts for further liberalization but also advocacy of protectionism in the protection of SMEs and workers. Populist trade policies are, thus, both about the erection and removal of trade barriers. Trade policy-nativism is about how trade policy is used to protect “members of the native group” (Mudde, 2007, p. 19), i.e., the ethnic majority of the nation, from the influence of foreign ideas and cultural expression—the “cultural competition” of Kriesi et al. (2006, p. 928). However, it is also about protecting culturally significant symbols of national pride that evoke a myth of a distant past (Rydgren, 2007), such as culturally or nationalist-coded industries or products.

3.1. Trade Policy: Populism

RRP populism consists of a conflict between the people and the elites. Corrupt elites use their privileged

access and power to forward their own interests against the well-being of the people (Ivaldi & Mazzoleni, 2020; Mudde, 2007; Otjes et al., 2018; Zaslove, 2008). The task of politics for RRP is to wrest control from elites and return it to the people (e.g., Ivaldi & Mazzoleni, 2020; Zaslove, 2008). For trade policy, I expect that the dichotomy between people and elites is projected into the arena of international trade negotiations. The utopian vision of unrestricted popular sovereignty that RRP outline as the end goal of their political engagement (Ivaldi & Mazzoleni, 2020; Zaslove, 2008) is, in terms of trade policy, the notion of a “fair economy” (Zaslove, 2008), where less privileged nations and small-businesses are allowed to compete on an undistorted international market. Here, I develop the observation by Otjes et al. (2018) that opposition to “rent-seeking behavior” is a central tenet of RRP-economic policy, which I modify to also apply to trade policy. This opposition inspires skepticism of the trade-policy motives of the large and geopolitically powerful nations and multinational firms that are commonly vilified by RRP (e.g., Zaslove, 2008). They are perceived as exploiting or dictating the rules of international economic institutions or lobbying for trade-distorting policies, such as subsidies or product regulation, to privilege their own interests to the detriment of low-skilled workers and small-business owners, often recognized as RRP core voter groups (e.g., Ivarsflaten, 2005; Oesch & Rennwald, 2018). Although this definition likely overlaps considerably with a more nativist conception of the people as the ethnic-native population, the onus is on their “common economic destiny” (Ivaldi & Mazzoleni, 2020, p. 212) being under threat from elite interests. Because smaller, less geopolitically influential nations and firms do not carry the same weight in international trade negotiations, their competitiveness will be unfairly reduced. Therefore, international trade negotiations are not an activity for the realization of mutual benefits between partners. Rather, because the game is “rigged” in favor of bigger and more geopolitically powerful nations, trade negotiations become a zero-sum game between hostile partners seeking benefits for their industries at each other’s expense.

In terms of policy advocacy, my argument is inspired by Ivaldi and Mazzoleni’s (2020, p. 206) finding that RRP may advocate both free-trade policies and protectionism. Wresting control of the international trading system from the hands of corrupt elites may be pursued either by removing the causes of distortions introduced by elites—liberalization—or by introducing trade restrictions that help make market participation more equitable. Historically, RRP have shifted from promoting neoliberal economic policies, in the 70s and 80s to promoting increased government intervention, in the 90s and onwards (Zaslove, 2008). The early neoliberalism was a reaction to a perception of the state and political class as corrupt and inefficient (Betz, 1993), while from the 90s and onwards, government intervention was a response to accelerated globalization and the

empowerment of global capital (Zaslove, 2008). Then, who the antagonist is perceived to be, appears to matter for the ideological flavor of populism. When the antagonist is the state, the prescription is neoliberal policies, which regarding trade policy is advocacy of free trade. When global capital/MNCs are the object of populist resentment, government regulation (protectionism) is the preferred policy response. Moreover, since small business owners are more likely to favor neoliberal policies than low-skilled workers (Ivarsflaten, 2005; Oesch & Rennwald, 2018), the choice between free trade and protectionism may depend on which part of their constituency is framed as the beneficiary.

Empirically, this implies that the SD are likely to advocate liberal trade policies in response to large or geopolitically powerful nations that use their influence to seek undue benefits for their own industries to the extent that it damages small business owners. With Sweden being a small economy not possessing the market power and geopolitical standing to make much impact on the structure of world trade, the SD are likely to seize on the asymmetric power relationship between large and small nations to vilify international trading as unfair and corrupt.

Populist protectionism, then, is more likely to emerge in response to global capital and MNCs, where government intervention should be favored as a counterweight to co-optation by non-state actors. Because NTBs may be more targetable toward particular segments of the workforce, for example, low-skilled workers, and because they are less politically sensitive than tariffs and quotas, the SD are more likely to advocate NTBs than import tariffs and quotas.

3.2. Trade Policy: Nativism

I call nativist trade policies those policies that, through the regulation of international economic exchange, seek to protect the ethnically native population from foreign cultural influence and segments of the economy that have value as symbols of national identity, history, and culture. These policies build on the idea that native populations should be kept distinct so as not to destroy their bonds of common history and cultural heritage through cultural exchange (Elgenius & Rydgren, 2019; Zaslove, 2008). The primary problem with economic globalization is, thus, not that foreign competition allows foreigners to exercise control over domestic production and employment patterns (Mudde, 2007; Otjes et al., 2018), but the import of alien cultural expressions and the decay of ethnonationalist economic symbols (Rydgren, 2007). Aversion to cultural diversity, more than to economic inequality and ethnocentrism, is typical of those who are likely to vote for RRP (van der Waal & de Koster, 2015). These voters are reported to fear less the distributional consequences of trade openness than a loss of social status (Bornschieer & Kriesi, 2013). RRP may mobilize these voters by advocating protection from cultural influences

that threaten their social status to alleviate their cultural insecurities. In other words, the call to protect sectors such as agriculture and manufacturing is made for their significance as symbols of ethnonationalism, not because those who threaten to run them out of business happen to be foreigners.

Agriculture and manufacturing are examples of sectors that used to make up large parts of Western economies at a time when the population was more homogenous and when “real values prevailed, against multiculturalism” (Ivaldi & Mazzoleni, 2020, p. 213). The selective protection of these sectors from international competition, thus, is a way of preserving—or reinstating—what is perceived as unique historical and cultural characteristics and values of the native population, deployed to resonate with voters who are insecure about their perceived loss of social status.

Based on this discussion, I derive a set of empirical expectations. Elgenius and Rydgren (2019) show how the SD refers to historical, cultural, and ideational facts about what unites native Swedes to justify anti-immigration policies as a means to restore and preserve the essential “Swedishness.” Further, the SD has been found to contrast Swedish cultural and historical affinity for animal protection and care for nature with the mistreatment of animals in foreign cultures (Backlund & Jungar, 2022). The expectation is that these tendencies also inform their trade policies. One manifestation may be the reference to the historical greatness of Swedish industry or the values of ecological consciousness and self-sufficiency embodied by Swedish agriculture, mining, and forestry—sectors that historically made up sizable parts of the Swedish economy and contributed significantly to Swedish growth during the 19th and 20th centuries (e.g., Schön, 2012). Hence, we are likely to see the SD selectively protecting sectors that they regard as symbols of the values of the native Swedish population, such as agriculture, manufacturing, mining, and forestry. However, nativist policies of this kind may also involve promoting the export of culturally significant products or restricting imports that embody values that are alien to the values of the native population, such as halal and kosher meat.

4. Methodology, Data, and Case Selection

For long, Sweden was exceptional in not having an RRP in parliament (Rydgren & van der Meiden, 2019). This changed in 2010 when the SD gained 5.7% in the parliamentary election, and their support has increased in each successive election. A vote share of roughly 22% in the election of 2022 provided them with enough electoral leverage to become a supporting partner to the incoming conservative–liberal government in exchange for influence over policy formulation. Consequently, the policy priorities of the SD have the potential to be reflected in the international economic policies of the Swedish government, making the results of this study

important to understand future Swedish policy developments. Moreover, Sweden is a small and highly trade-dependent nation (Katzenstein, 1985) that has historically lobbied for liberal international policies and has had high popular support for free trade (Darvas, 2020, p. 7; Jakobsson, 2007). Critique of free trade, then, may be more politically costly than in contexts where trade is less economically important, for example, in bigger nations with larger home markets. Hence, Sweden is a well-situated case to study how trade skepticism is articulated in an environment where it is likely to be politically untenable.

As data sources, I consider legislative proposals, elections, and party manifestos from 2010, when the SD entered the Swedish parliament, to 2022. Citations are translated from the original Swedish by the author. The year 2010 was selected as a starting point partly because the production of legislative proposals requires representation in parliament and given the data availability. Some suggest that RRP moderate their policies upon inclusion in parliament or government (e.g., Minkenberg, 2001). While exhibiting a slight tendency toward this, moderation is largely a question of language rather than policy content. Since 2015, the SD has issued annual editions of the proposal Trade Policy for Growth, which is arguably the document that most approach a collected trade-policy platform. This proposal is almost identical from one year to another, except for rephrasing and treatment of current events (e.g., TTIP), which indicates no significant variation in the substance and motives of SD trade policy over the period considered.

By going through legislative proposals, this study avoids problems associated with manifesto research; for instance, they often reflect the electoral moment and tend to be vague on issues that are detrimental to electoral success or that can inflame intra-party tensions (Marks et al., 2007). Legislative proposals reflect the process of everyday legislation and thus tend to be more concrete and too technical to attract attention from the media or be widely read by party officials. Proposals then avoid the problem of political sensitivity but also provide data of enough detail to study the low salience and complexity that is modern-day trade policy. A search in the party and election manifestos for the term *frihandel* (free trade) returns far fewer hits and exhibits lower salience than searches on the terms *invandr* (immigration) and *EU* (see the table in Supplementary File 2). Because references to trade were, in addition to being few in number, often quite general, and the level of detail required to study nuances in ideology and trade policy instruments necessitated, the analysis consists entirely of legislative proposals.

The so-called “sampling units” (Krippendorff, 2013, p. 99) are textual units that are subject to analysis. These can be entire sections, paragraphs, or sentences depending on whether international economic issues are discussed by the SD. Statements are the textual units that make up the analysis and consist of claims, criticisms, and

other characterizations, according to Table 1. The content analysis is based on the dimensions that constitute my analytical framework: trade policy-populism and trade policy-nativism. These dimensions are operationalized according to the empirical expectations described in the previous chapter.

5. Analysis

5.1. Populism in SD's Trade Policy

This section explores how populism informs the trade policies of the SD. The expectation was that populism would manifest as a conflict between small business owners and workers who are being exploited by elites, large geopolitically powerful nations, and multinational firms. The results indicate that this narrative is present in framing the general trade political outlook and for particular sectors, such as agriculture, chemicals, and retail, and is targeted against states rather than MNCs or global capital. Powerful nations are maligned as co-opting the international trading system to advantage their domestic industries. Surprisingly, this distrust does not seem to translate into protectionism. Rather, populism is attached to advocacy of liberalization and anti-protectionism can be illustrated by the quote below:

From a global perspective, big exporting and economically powerful nations, should not act protectionist and give market-support and distortionary subsidies to their own industries. Should such action occur, the government needs to call attention to the attending problems in order to always seek fairness in global trade. (SD, 2022a, p. 4)

The quote also indicates a self-interested form of liberalism that borders on mercantilism. International

trade should “increase market-share, growth and profit-margins and that this occurs in real terms with comparable countries” (SD, 2022a, p. 5)—i.e., Sweden should benefit more from trade than other countries. More concretely, this means that in trade negotiations, Sweden should seek to “incorporate that which strengthens Swedish comparative advantages” (SD, 2022a, p. 5), which may be interpreted as particular provisions covering sectors where Sweden has a comparative advantage. In instances of excessive lobbying by exporting nations, import substitution (IS) may be warranted to shield domestic production from the inequities of foreign state manipulation of the international trading system (SD, 2022a, p. 5). This coincides with Mudde’s (2007, pp. 186–187) observation that RRP’s are interested in economic policy only insofar as it serves the interests of the nation; free trade is not advanced because of commitments to norms of reciprocity or collaboration but because it secures gains for the Swedish economy—preferably net gains.

The protection of trade gains from elite misbehavior is best sought through liberal trade policies. Small business owners, or SMEs, are the primary targets of these policies. As expected, elites come in the form of geopolitically powerful states in the EU, China, India, and, to some extent, the US. The EU, they argue, exhibits “market and trade-hostile tendencies” (SD, 2022a, pp. 4–5), of which the “European champions” proposal is an example. The EU system of trade preferences also tends to favor the interests of old colonial powers in extending preferences to former colonies (SD, 2011a, p. 16). The SD argues that China leverages its “economic muscle to gain great influence and possibilities to extort nations,” securing benefits for Chinese companies (SD, 2011a, p. 16). The US is similarly targeted as leveraging its economic power to secure benefits, such as the investor-state dispute settlement mechanism in the TTIP negotiations (SD, 2022a).

Table 1. Operationalizations of the analytical framework.

| Analytical dimension | Operationalization |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trade policy—populism | <p>(a) Statements that refer to international trade or the international trading system as corrupt and formed by the interests of big/geopolitically powerful nations or MNCS.</p> <p>(b) Statements that advocate liberalization or protectionist measures—tariffs and quotas or NTBs—as taking back control over the international trading system from big/geopolitically powerful nations or MNCS or making international markets more fair and accessible to smaller/less powerful nations, small business owners, and workers.</p> |
| Trade policy—nativism | <p>(a) Statements that refer to economic globalization as contributing to either the decline of historical/cultural symbols (sectors, firms, or products that contribute, promote, or embody the national culture, history, or identity) or the import of goods that embody values alien to native culture or values.</p> <p>(b) Statements that refer to protectionist measures—NTBs (subsidies, product regulation, labeling requirements or restrictions on government procurement, etc.) or tariffs and quotas—as either a defense against culturally distant influences or protection of historical/cultural symbols.</p> |

Their critique is not only of individual nations but of the international trading system itself. The WTO, the SD argues, is “effectively put out of play,” likely undemocratic and a pawn of bigger nations, such as China, which they argue is “wrongly privileged by the WTO” (SD, 2022a, p. 9). The concessions developed for least-developed countries (LDCs) as part of the Doha-Round are “colored by the national considerations of China and India with respects to their domestic production” and used to access the EU market while restricting the access of LDCs to their home market (SD, 2011a, p. 16). Consequently, the SD argues that the WTO should be reformed to become more democratic by offering businesses, particularly SMEs, influence over WTO policy (SD, 2022a, p. 7). Reform should also include stripping China of its status as a developing country and the attending privileges (SD, 2022a, p. 6), for example, lower postal rates that unfairly disadvantage Swedish e-retailers. The SD argues that to ensure “sound competition” (SD, 2022a, p. 6), postal rates should be harmonized in the global postal strategy. This is an example of how the SD legitimize political action on trade by reference to the misbehavior of large nations. Similar efforts at liberalization are found in the chemical sector, where they argue for harmonized regulations to ensure that “particular nations do not get competitive advantages” by adopting discriminatory rules against foreign chemical firms (SD, 2018, pp. 2–3). In terms of agriculture, the SD argue for more lenient rules on genetically modified crops (GMO) to help Swedish “small farmers” compete on the international market. Currently, the process of GMO approval in the EU is marred by the tendency of states to vote no “for overtly political reasons” (SD, 2021a, p. 17), which recalls the skepticism of other nations on the trade-policy arena.

In sum, liberalization seems to be the policy prescription most affiliated with populism for the SD, contrasting earlier studies (Mudde, 2007; van der Waal & de Koster, 2018; Zaslove, 2008). Rather than ignoring economic globalization or disputing its inevitability, as Mudde (2007, p. 197) suggests, the SD advances the benefits of competitive international markets. The endorsement of free trade by the SD reflects the sensitivity of RRP trade policy to issue and context, as noted by Ivaldi and Mazzoleni (2020), and populism as a “thin ideology” (Mudde, 2007) capable of accommodating diverse policy prescriptions. At the same time, the reduction of international economic collaboration to a winner-take-all-game and the espousal of IS betrays a (if not protectionist) at least mercantilist understanding of international trade.

5.2. Nativism in SD’s Trade Policy

The expectation for how nativism informs SD trade policy was that they were more likely to advance trade-restrictive policies to protect sectors that are significant parts of Swedish culture or history and for protection against products that signify culturally remote or distant

ideas or expressions. The results align with the expectations. Agriculture, fishing, and the creative and cultural sector (although surprisingly not manufacturing) are emphasized as symbols of Swedish history, heritage, culture, and identity, which warrants their protection from countries with lower environmental, animal welfare, and consumer-health standards. The framing of Swedish environmental, animal welfare, and health standards as stricter may be interpreted as nativist because it appeals to notions of agricultural customs that are historically distinctive for the native Swedish population, as demonstrated by Elgenius and Rydgren (2019) for immigration policy. To a lesser extent, the SD advocates protection against foreign cultural expressions, halal and kosher meat (SD, 2021b), or the promotion of distinctly Swedish export products, such as the tobacco product snus (SD, 2021c). The data shows that the SD primarily selects NTBs, such as subsidies, domestic and international product standards, and labeling requirements, rather than tariffs and quotas. This vindicates broadening the definition of protectionism.

The SD attributes parts of the economy that engage in the exploitation of natural resources (agriculture and fishing) as symbols of Swedish history, culture, and identity, and as embodying particularly Swedish characteristics and values. These values have “clear popular support” and need to be integrated into any trade deal that Sweden signs (SD, 2015a, p. 5). Swedish agriculture, they argue, symbolizes a rural lifestyle and is integral in maintaining “landscape and cultural values” and “our cultural heritage and cultural geography” (e.g., SD, 2017, p. 62). Similarly, Swedish fishing is an enterprise where “culture, heritage, environment, and identity interact with employment, economy and food production” (SD, 2015b, p. 68). The romanticization of the symbiosis between agriculture and fishing with nature paints a picture of a distinct Swedish landscape particularly suited for cultivation (SD, 2020, p. 58). Swedish agricultural traditions of care for the natural landscape and animal welfare imply its moral superiority over agriculture in other countries, as seen below:

Sweden has one of the most comprehensive animal-protection legislation and most competent animal breeders. The Swedish animal welfare legislation is unique and goes much further than the other big food-producing competitor countries...Animal welfare is also something that Swedish farmers stake their honor on. Here, the animals are healthy and the use of antibiotics low. (SD, 2021a, pp. 14–15)

This contrasts with other countries, for example, those that bleed animals to death without sedation (SD, 2011b, p. 89), a not-so-subtle reference to the religious practices of Muslim countries (see Backlund & Jungar, 2022, for an analysis of nativism in SD animal protection policy). In fact, the SD argues that “the degree of civilization of a society is measurable in its treatment of animals”

(SD, 2012, p. 33), which arguably implies a hierarchical perspective. The elevation of agriculture and fishing has implications for the direction of SD trade policy. The distinctiveness of Swedish agriculture is what makes it unable to compete with countries that do not adhere to the same strict animal and environmental standards (SD, 2011b). Import from countries with lower standards risks “a continuously diminishing agricultural sector;” the loss of traditional knowledge and lower quality food for Swedish consumers” (SD, 2011b). Fishing, the SD (2022b, p. 2) argues, suffers from the same competitive disadvantage from countries such as Norway and Scotland that do not care enough about fish health. Other examples include the film industry, where productions that celebrate the Swedish environment, language, and common heritage risk being outcompeted by cheaper foreign films (SD, 2021f, p. 2).

The SD advocates several protectionist policies to address the problems of competitiveness raised in the previous passage. These are predominantly NTBs: subsidies, product regulation, labeling requirements, and to a lesser extent, import restrictions. Subsidies, the SD (2012, p. 3) argues, are necessary to compensate for the extra costs contracted through compliance with strict Swedish regulations on animal welfare to make Swedish farmers internationally competitive, for example, an “animal-welfare-handout” or grazing and dairy cow supplements (SD, 2015b, p. 66). The purpose of the handout is to privilege the “absolute majority of farmers that respect the intentions of Swedish animal-protection legislation so that they will not face competitive disadvantages” (SD, 2012, p. 3), indicating the purpose of the subsidy as relating to the politics of trade. Subsidies, in the form of discount systems on production costs and differentiated tickets, are also advanced for films that “emphasize and vivify Swedish history and cultural heritage” (SD, 2021f, p. 2). Changes in product regulation are advocated for agriculture but also fishing. For agriculture, the SD (2021d, p. 8) advocates harmonization of animal welfare legislation at the EU level to the strict standards of Swedish legislation; for fishing, they advocate Nordic harmonization of environmental standards to ensure vibrant populations of fish and flourishing coastal fisheries (SD, 2021e, p. 4). Support for agriculture and fishing also extends to calls for labeling products according to the origin and specifying if they are produced in Sweden, including mandatory labeling for businesses that serve food (SD, 2022c). Traditional Swedish food products should also be marked as products of cultural and historical value (SD, 2016, p. 1). Moreover, the superiority of Swedish agricultural and fishery products warrants privilege or exclusivity in government procurement, according to the SD. For food, they want to “require that when the government procures food, they should only buy products that comply with Swedish environmental and animal-welfare legislation” (SD, 2021d, p. 9), and fish caught in Swedish waters should be “prioritized ahead of products on the inter-

national market” by public institutions (SD, 2019, p. 2). Finally, halal and kosher meat imports should be prohibited (e.g., SD, 2021b) and the government should advocate for lifting the EU-imposed export restrictions on Swedish snus. The SD (2021b, pp. 1–2) claims that the promotion of snus is part of “preserving and strengthening Swedish culture and tradition” because of its status as part of Swedish cultural heritage. Import restrictions on halal and kosher butchery and export promotion of snus show how cultural connotations, rather than an economic assessment of distributional consequences, have implications for SD trade policy.

These findings serve to concretize the meaning of cultural protectionism in the previously understudied domain of trade policy. I have shown that the SD advocates trade-restrictive policies to protect nativist conceptions of uniquely Swedish characteristics.

6. Conclusion

This study found that the SD advocates both protectionist and liberal trade policies and that nativism and populism play a part in informing those policies. Advocacy of protectionist policies is grounded in the protection of ethnonationalist notions of Swedish culture, history, and identity, while liberalization emerges as a response to elite co-optation of the international trading system in defense of the interests of small-business owners. The answer to the question posed initially—are the SD protectionists?—is by necessity then, yes and no. Nonetheless, the division into nativism and populism has significantly clarified the sources of this ambiguity. Even if they largely do not support more traditional trade-policy instruments, their claim to support free trade betrays an advocacy of more complex intra-state trade-restrictive measures—NTBs. This demonstrates the need to pay attention to the plurality of trade-policy instruments that RRP advocates.

This article complements research on the ideological underpinnings of RRP economic policy (Ivaldi & Mazzoleni, 2020, building on Mudde, 2007; Otjes et al., 2018) and offers a framework adapted for international trade policy. By focusing on trade policy instead of European integration or immigration, this framework contributes to a greater understanding of how RRP use trade policy—an understudied facet of globalization—to mobilize voters. The finding that the SD engage in cultural protectionism complements earlier research on how globalization structures Western European party competition (Hooghe & Marks, 2018) by showing evidence of how trade skepticism, and not only EU integration and immigration, may constitute the nationalist pole of the transnational divide. At the same time, the finding that the core ideology of RRP inspires a combination of liberal and protectionist trade policies for the SD nuances the picture of RRP as drivers of the contestation of globalization. Scholars of the economic policies of RRP treat such ambivalences as being the result of “blurring,” i.e.,

RRPs make their positions on economic issues purposely vague to attract a broader coalition of voters while simultaneously emphasizing the cultural issues where they are most competitive (Rovny, 2013) or selectively framing certain elements that are more salient to their core voters (De Vries et al., 2021). Because nativism and populism are regarded as “ideological master frames” (Mudde, 2007), they may well be able to accommodate disparate positioning on the economic left-right scale, as the literature on blurring would suggest. However, the findings of this article indicate that the core ideology of RRP may restrict certain positions, at least in the realm of trade policy; in essence, it sets boundaries on the range of contradictory positions, hemmed in by core tenets of nativism and populism.

Moreover, I have shown how ideological constructions and narratives of cultural and populist entrenchment inform international economic policy proposals, although I do not claim that these dimensions are exclusive to RRP. Thus, in addition to contributing to the literature that stresses cultural determinants of RRP policies (Kriesi et al., 2006; Mudde, 2007; Otjes et al., 2018), I also expand the relevance of previous findings on how RRP field cultural markers to legitimate policy intervention on trade policy, in addition to policy areas, such as immigration (e.g., Elgenius & Rydgren, 2019; Norris, 2005) and animal welfare policy (Backlund & Jungar, 2022).

The purpose of this study was to investigate the ideological underpinnings of SD trade policies by developing conceptual tools derived from previous research on the core ideology of RRP. The use of the single case study necessarily restricts the prospects for generalization, but this article offers two promising venues for future studies.

First, to test the generalizability of the results within the radical right party family, for example, regarding variation in the acceptability of protectionist policies across political contexts. Sweden’s history of liberal international economic policy (e.g., Jakobsson, 2007) and high support for free trade (Darvas, 2020, p. 17) may make the Swedish electorate disapprove of protectionist policies. The highly technical nature and ambiguous legal status of NTBs may, thus, offer greater leeway for the SD to advocate protectionism if traditional trade policies are politically untenable. However, where protectionism is less politically costly, for instance, in bigger and less trade-dependent nations, the policy mix between tariffs and quotas and NTBs may be more balanced than for the SD.

Second, to test the generalizability of the results across party families. Studies suggest that as RRP grow more electorally relevant, mainstream parties tend to adopt policy positions and priorities that more closely resemble those of RRP, at least on immigration and crime policy (e.g., Joon Han, 2015). The task for further research is, then, to examine if nativist and populist arguments carry over to the trade policies of mainstream parties in contexts where RRP wield political influence. Finally, this study has not considered Mudde’s

(2007) conception of “authoritarianism”: the belief in a strictly ordered society in which the state’s authority is celebrated. This dimension is related to the emphasis on the state as a guarantor of national security and is likely to gain analytical relevance for the study of RRP and trade policy, given the geopoliticization of international trade and investments (e.g., Babic et al., 2022) and the newly launched European economic security strategy (Directorate-General for Communication, 2023). The strategy involves promoting competitiveness, protecting economic security, and intensifying international cooperation with reliable partners. Because the strategy represents increased EU involvement in its member states’ security and industrial policies, it may activate populist antipathy toward international organizations, particularly given the deep-seated SD skepticism of the EU. At the same time, the empowerment of states to safeguard economic security may appeal to authoritarian tendencies in SD and RRP ideology that prioritizes security over economic aspects. Further research should explore how RRP straddle authoritarianist underpinnings, on the one hand, and populist and nativist, on the other, in the context of increased geopolitical tension in international economic policy.

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Conflict of Interests

The author declares no conflict of interest.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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About the Author



Alexander Dannerhäll is a PhD student in political science at Oslo Metropolitan University in Oslo, Norway. His research interests are international political economy, trade policy, and the domestic politics of international trade and investments. He has an MSc in political science and an MSc in economics, both awarded by Lund University, Sweden. He is affiliated with the project TradeCont—Darkness on the Horizon? Exploring the Response to Contestation of Trade Policy.

Article

Winners and Losers From Trade Agreements: Stock Market Reactions to TPP and TTIP

Andreas Dür¹ and Lisa Lechner^{2,*}

¹ Department of Political Science, University of Salzburg, Austria

² Department of Political Science, University of Innsbruck, Austria

* Corresponding author (lisa.lechner@uibk.ac.at)

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Abstract

Which companies gain and which companies lose from trade agreements? In contrast to a view that sees the largest companies as the main beneficiaries of trade agreements, we argue that medium-sized companies gain the most from them. Moreover, we examine whether more capital-intensive and more diversified companies benefit more than other firms. Our empirical test relies on a dataset with daily firm-level stock price data for close to 4,000 US companies over the period 2009–2016. Concretely, we assess how the shares of different types of firms reacted to the news on the (lack of) progress of the negotiations aimed at concluding the TPP and TTIP. We find support for the view that medium-sized and diversified companies win the most from trade agreements. Besides speaking to the literature on the distributional effects of trade agreements, the article contributes to recent research on the role of firms in the international political economy and the stock market consequences of political events. It also presents a novel approach to measuring progress and stagnation in international trade negotiations using computational text analysis.

Keywords

distributional effects; stock markets; trade agreements; TPP; TTIP

Issue

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1. Introduction

Developed countries currently witness a backlash to globalization. After many years of moving towards ever more liberal trade and economic relations, we now see at least a partial reversal of these policies. In Europe, Brexit and strong opposition to the TTIP, a potential trade agreement between the US and the EU that did not materialize, epitomize this globalization backlash (Dür et al., 2020). In the US, the election of Donald Trump as president and the decision to withdraw from the TPP are mentioned as examples of this reaction to globalization.

Many researchers and observers use the distributional consequences of trade policy choices to explain this development (Rodrik, 2018; Saval, 2017). The deep trade agreements that countries conclude, the argument

goes, mainly benefit the already wealthy, while hurting the relatively less well-off. As a result, the latter increasingly turn against globalization in general and trade agreements in particular. But what are the actual distributive consequences of trade policy choices? We contribute to answering this question by focusing on which companies gain or lose from trade agreements.

Building on the so-called “new–new trade theory” (Ciuriak et al., 2015; Melitz & Redding, 2014), we present three expectations on the relationship between firm characteristics and trade agreements. The first argument deals with differences in company sizes. Critics of trade agreements see the largest multinational companies as their main beneficiaries. Some academic research supports this view (Baccini et al., 2017; Breinlich, 2014). Others take a more benign view. Illustratively, supporters

of TTIP predicted that this agreement would mainly benefit small and medium-sized companies. The United States Trade Representative Mike Froman (as cited in Workman, 2014, p. ii), for example, stated: “Among the many beneficiaries of TTIP, perhaps small businesses stand to gain the most.” We side with the second view in arguing that the largest companies engage in international trade even with the existing barriers. These barriers, however, are prohibitive for slightly smaller companies. The reduction of barriers, then, mainly benefits these medium-sized companies, by allowing them to become active participants in international trade. Furthermore, we expect that capital-intensive and diversified companies gain more from the conclusion of trade agreements than other companies.

We test our argument with a stock market event study that relies on daily firm-level stock price data for 3,926 US companies, over the period of 2009–2016. Specifically, we assess how the shares of different types of firms reacted to the news on the (lack of) progress of the negotiations aimed at concluding the TPP and TTIP. TPP was supposed to be a trade agreement among 12 countries in the Pacific region, including the US. It failed when the last decided to withdraw its signature from the agreement in early 2017. TTIP aimed to facilitate trade between the US and the EU. Formal negotiations for TTIP started in 2013 but stalled in 2016.

Our study is not the first to examine the stock market impact of trade agreements. More than two decades ago, Thompson (1993, 1994) analyzed how the Canada–US Free Trade Agreement affected the market value of Canadian companies. Breinlich (2014) reanalyzed the same agreement from within the framework of the new–new trade theory. Whereas these studies just focused on a single country, Rodriguez (2003) investigated the (sectoral-level) stock market impact of the North American Free Trade Agreement in all three participating countries. Moving to a quite different context, Parinduri and Thangavelu (2013) studied the impact of the US–Singapore free trade agreement. Looking at a disintegration event, Davies and Studnicka (2018) assessed the impact of the exit of the UK from the EU on stock prices. Finally, Moser and Rose (2014) studied the impact of a large number of preferential trade agreements on aggregate national stock market indices.

We make several contributions to this state-of-the-art. First, whereas all the studies that looked at firm-level effects focused on a single trade agreement, we included two agreements in our analysis. This increases the robustness of our results and allows us to check for any differences depending on agreement characteristics. Second, we study both “positive” (i.e., pro-integration) and “negative” (i.e., disintegration) events in a single study. Doing so allows for a much better empirical test of our expectations. Third, we use automated text analysis to identify the relevant events. Most previous studies either only considered a single event (mainly the signature of a trade agreement) or very few, manually

selected events. The approach used in these studies faces the problem that investors may already become convinced that an agreement is very likely before the agreement is signed. The effect of the news on the signature may therefore be very small. By focusing on a larger number of events throughout the process of negotiations, we managed to remedy this problem.

In making and testing our argument, the article also contributes to a broader strand of research that uses stock market data to assess the impact of political events (Bechtel & Schneider, 2010; Schneider & Troeger, 2006; Wolfers & Zitzewitz, 2018). Furthermore, we contribute to a growing literature on the role of firms in international political economy (Jensen et al., 2015; Milner, 1988; Osgood, 2018). Finally, in terms of policy implications, our study suggests that recent policies that have the potential to reduce global openness under the banner of “economic security,” such as the EU’s European Economic Security Strategy (European Commission, 2023), may negatively affect mid-sized firms in particular, which find it more difficult to adjust to new circumstances than the largest firms. If such policies really favor the largest players, they may reduce rather than enhance countries’ resilience to shocks.

2. Argument

In line with what has been called “new new trade theory” (Ciuriak et al., 2015; Melitz & Redding, 2014), recent research has shown much variation in the consequences of trade liberalization or other trade policies across firms within the same industry (Baccini et al., 2017; Breinlich, 2014; Melitz & Redding, 2014; Osgood, 2017). Increased trade leads to a reallocation of production within the same sector from firms with relatively low productivity (which also tend to be smaller companies) to firms with higher productivity (which tend to be the largest companies in a sector, see e.g., Leung et al., 2008). We draw on this strand of literature when proposing a set of hypotheses on the distributional effect of trade agreements at the level of firms.

Throughout the following discussion, we build on the assumption that investors—which tend to be of the institutional type, that is, professionals investing the money of others—are aware of the effects of trade (agreements) on different firms. To make informed investment decisions, they follow the news on trade negotiations. Given that most investments in stock markets are undertaken by institutional investors, the assumption that they are well-informed about trade negotiations is plausible. For the argument, it does not matter whether they get this information via media or through another channel.

When the news indicates that the chances for a successful conclusion of a negotiation increase, they buy shares of companies that they expect to benefit from the agreement and sell shares of companies that they expect to be hurt by the agreement. If the news indicates that the chances for a successful conclusion of

the negotiations decrease, the investors will do just the opposite—sell the shares of the companies that would benefit from the agreement and buy the shares of the companies that would lose from the agreement. Selling means that the price of the shares decreases, whereas buying means that the price of the shares increases. At any time, therefore, the value of a stock internalizes all the information available to investors and, hence, takes into account expected future changes in profitability.

The starting point for our argument is that, across all sectors, relatively few firms engage in international trade. Illustratively, for the US, Bernard et al. (2007, p. 109) showed that less than a fifth of all firms in the manufacturing sector export goods. This value is similar for other industrialized countries (World Trade Organization, 2008, p. 53). Improved access to foreign markets then benefits only a subset of firms within each sector. The same applies to importing: Once again, only a minority of companies source imports abroad and hence benefit from lower domestic trade barriers. As there is much overlap across the two sets of firms—those that export and those that import—most companies cannot directly benefit from trade liberalization.

Of course, modern trade agreements do more than just liberalize trade. They also protect FDI and intellectual property rights and even affect domestic regulations via regulatory cooperation (Dür et al., 2014). From the home country perspective, the protection of FDI mostly matters for a small number of companies, as only a few companies tend to produce abroad. In the host country, a larger number of companies may face increased competition from FDI because of a trade agreement. In an agreement between developed countries, provisions concerning the protection of intellectual property rights generally do not matter much, but they can affect firms in agreements with countries at lower levels of development. Regulatory cooperation can have a broader impact, but in practice regulatory cooperation does not actually change domestic rules, but at most offers some form of mutual recognition.

Moreover, via several mechanisms, trade agreements can indirectly matter for companies that neither engage in international trade nor invest abroad. Companies lose from trade liberalization if they now face competition from abroad for the goods they produce or the services they provide. Or they can benefit from trade liberalization if their output is used as input in new exports. Trade liberalization also affects the costs of factors of production, which matter for all firms in an economy. In fact, in the model put forward by Melitz and Redding (2014), the reallocation of resources across companies that results from trade liberalization mainly works via an increase in the price of labor.

Finally, trade agreements matter for all companies via their impact on economic growth. The deep agreements that currently are negotiated generally increase participating countries' gross domestic product. However, the macroeconomic impact of many trade

agreements is small, especially those that are signed among minor trading partners. In any case, this impact via economic growth should be relatively homogenous across firms.

Keeping all of this in mind, what are the firms that benefit most from a new trade agreement? An argument could be made that the benefits should mainly accrue to the largest firms in an economy. As stated previously, only a minority of firms export their goods or services. Those that do tend to be larger and more innovative than those that do not. For example, manufacturing exporters from the US are more than twice as large in terms of employment than otherwise equal firms that do not export (Bernard et al., 2007, p. 110). The most prominent explanation for this observation is that firms pay a fixed entry cost when they want to export. Only for the most profitable companies is it worthwhile to pay this entry cost. Just as exporting, sourcing abroad is mainly undertaken by large companies (Bernard et al., 2007). This is so because the fixed costs of establishing a supply chain are relatively high, not least because the relationship-specific investments for both buyers and sellers of intermediates are high (Antràs & Staiger, 2012, p. 3141). Finding a seller then is a tricky task. Only for large firms, the lower variable costs of foreign suppliers outweigh the higher fixed costs of establishing an international supply chain (Helpman et al., 2004). The same logic applies to FDI: Once again, only the largest companies tend to invest abroad. What is more, these large companies also have the political clout to shape the contents of trade agreements (Anderer et al., 2020; Sell, 2003). Overall, one might expect large firms to benefit from trade agreements and smaller ones to lose (or at least the former to benefit more than the latter).

However, there also is an alternative perspective on the impact of firm size on the benefits of trade agreements. Proponents of such agreements tend to argue that they mainly benefit small and medium-sized companies (European Commission, 2013; Persin, 2011; Workman, 2014). The logic of this argument is straightforward: Although the fixed costs of exporting, importing, or investing abroad under normal trading conditions are high, the largest and most productive companies can engage in all these activities even in the absence of a trade agreement. By reducing competition, barriers that keep fixed costs high can even benefit them. Trade agreements not only reduce variable costs such as tariffs, but also fixed costs, such as customs formalities, regulatory barriers, or risks to FDI. The reduction of these fixed costs should mainly benefit the mid-sized companies that in the absence of a trade agreement are barred from directly participating in international trade and investments. In the words of Workman (2014, p. 6): "A TTIP agreement that eliminates duplicative regulatory requirements and harmonizes equivalent standards would have an outsized positive impact on SMEs [small and medium-sized enterprises]." In fact, trade liberalization might allow some firms that previously only

produced for the domestic market to become exporters; and others that so far only sourced their inputs domestically to become importers.

Independent of whether this increase in exports and imports is due to trade creation or trade diversion, these firms are likely to reap some gains from doing so, as firms that engage in trade have been shown to grow more rapidly (Bernard et al., 2003; Kasahara & Lapham, 2013). What is more, the productivity gains from moving from non-exporting to exporting are greatest for plants that were relatively less productive at the starting point (Lileeva & Trefler, 2010). Finally, the chances of survival are higher for firms that engage in trade (Wagner, 2012, pp. 256–261). A trade agreement thus creates particularly large benefits for firms that manage to become exporters or importers. As we expect that, medium-sized companies, in particular, change from buying and selling locally to operating internationally, the benefits should be particularly visible for the latter group. Considering that in the context of a study on stock market reactions, the relatively smaller companies are medium-sized (because really small companies are not listed on stock markets), our first hypothesis reads as follows:

H1: The positive (negative) effect on share prices of events that make the conclusion of a trade agreement more (less) likely is larger for relatively smaller companies.

Recent research has also shown that international trade is inherently more capital-intensive than the supply of goods to the domestic market (Bernard et al., 2007; Ciuriak et al., 2015; Matsuyama, 2007). This contradicts traditional theories of trade, which expected that some countries (namely capital-rich ones) export capital-intensive goods and other countries (namely, labor-rich ones) export labor-intensive goods. It is also in line with this observation that much international trade is of an intra-industry nature, where countries exchange products within the same industry. With trade inherently biased towards capital-intensive goods and services, more capital-intensive companies should reap greater gains from trade agreements. We thus also expect:

H2: The positive/negative effect on share prices of events that make the conclusion of a trade agreement more/less likely is larger, the more capital-intensive a company is.

Finally, we expect that the companies that will be best situated to gain from a new trade agreement are those that are active across several sectors. Companies with high product diversification have a greater ability to take advantage of new opportunities that open up as a result of such agreements, or to shift focus away from products where trade agreements increase foreign competition. Indeed, research on multiproduct firms shows

that companies that face tariff reductions tend to lower the number of products they produce (Bernard et al., 2011), which in turn increases their productivity (Nocke & Yeaple, 2014). Alternatively, it might be argued that companies that are more diversified in terms of the number of products they produce are less dependent on trade agreements, meaning that their share prices react less to news about trade agreements. As we expect the former effect to dominate, however, our third hypothesis reads:

H3: The positive/negative effect on share prices of events that make the conclusion of a trade agreement more/less likely is larger, the more diversified a company is.

3. Research Design

We test our argument relying on the negotiations for TPP and TTIP. The former involved up to 12 countries, including highly developed countries such as Japan and the US, and developing countries such as Malaysia and Vietnam. The negotiations started in 2008 and continued until 2015 when a draft agreement was reached after 19 negotiation rounds. A very broad agreement, covering everything from tariff reductions to the protection of intellectual property rights and investments, was signed in 2016. In late 2016, then-President-elect Donald Trump announced that he would withdraw the signature by the US. The 11 remaining countries eventually moved ahead without the US. The TTIP negotiations between the US and the EU started with the establishment of a High-Level Working Group on Jobs and Growth in November 2011. Based on the report produced by this working group, formal negotiations for an agreement started in early 2013. Despite many negotiation rounds, no agreement could be reached on TTIP, and the negotiations were suspended when the Trump administration took over from the Obama administration in early 2017.

Both negotiations went through many ups and downs, making it possible to assess the impact of news on their progress or failure on companies' share prices. These ups and downs were not only produced by the willingness of the negotiation parties to make concessions but also by the reaction of the public. Both TPP and TTIP faced considerable public opposition in some countries, with this opposition contributing to their final demise. The two negotiations are also ideal for testing our argument as they are sufficiently important for it to be plausible that they had a detectable impact on stock prices. All trade agreements should matter at least for some companies (as otherwise they are unlikely to be signed), but an event study is not able to estimate these effects if only a few companies are affected, for example, because the agreement is between two countries with only weak trade links between them. For reasons of data availability, we focus on companies that have their headquarters in the US. Since the depth of the American

capital market is unrivaled, concentrating on the US also has substantive benefits.

3.1. Dependent Variable

The dependent variable captures the abnormal returns for companies—that is the difference between their actual stock price change and the one expected given previous performance or overall market movement—around a series of important events characterizing the TPP and TTIP negotiations. Worldscope provides data on 3,926 companies that have their headquarters in the US and that are listed on a stock exchange (mainly NASDAQ and the New York Stock Exchange). To generate a company’s abnormal returns, three standard event-study methodologies exist: market-adjusted models with within-sample estimation, market-adjusted models with out-of-sample estimation, and mean-adjusted models (MacKinlay, 1997). In our baseline model, we rely on the market-adjusted approach with in-sample estimation, but we employ the other two methodologies in robustness checks.

The market-adjusted models are calculated with the share price as the dependent variable and a broad-based stock index as a predictor:

$$R_{i,t} = \alpha_i + \beta_i R_{m,t} + \beta_{e,i} E_t + \epsilon_{i,t}$$

Where $R_{i,t}$ is the return for a specific firm i at time t , $R_{m,t}$ is the return on the market portfolio at that same time, and E_t represents a dummy that is 1 if t falls into the estimation window and 0 otherwise. We take the S&P 500 to measure the market return, that is $R_{m,t}$. The event dummy is only relevant in the within-sample estimations, where we concatenate the estimation period ($t - 120$ to $t - 2$) and the event period ($t - 1$ to $t + 5$). Starting the estimation period at $t - 120$ makes sense given the double objective of having sufficient information to estimate the model and not introducing too much noise in the model. We use a 7-day event period since markets are unlikely to efficiently price in new information in a single day. The coefficient $\beta_{e,i}$ then represents the (cumulative) abnormal return measure ($CAR_{i,t}$), which is the value of the dependent variable for firm i and event T . The advantage of using this model is that we get significance levels for the event coefficient $\beta_{e,i}$, which informs us whether a company’s returns during the event period were statistically significantly different from its expected returns.

For the out-of-sample estimation, we also use the period from 120 days before an event until two days before an event as an estimation window. The α_i and β_i that we receive from this model then allow us to calculate the expected return for a firm at time t . The abnormal return for each company is the difference between the observed return at time t and the expected return at time t . We again cumulate these abnormal returns starting one day before an event and ending five days after the event.

3.2. The Predictors

The main explanatory variable that we are interested in captures events that indicate progress or stagnation/failure of the TPP and TTIP negotiations. Rather than manually selecting some events, we decided to rely on the automated analysis of newspaper reports. For this purpose, we retrieved newspaper reports published in the US from LexisNexis. We found 2,359 newspaper articles on TPP published between 1 January 2009 and 31 December 2017 and 1,193 newspaper articles on TTIP that were published between 1 January 2013 and 31 December 2017. We then used computational text analysis to classify progress and stagnation events (more information on the exact approach is available in section A in the Supplementary File). Concretely, we relied on the support vector machine and random forest machine learning algorithms, as they outperformed alternative approaches after being trained on 400 manually coded texts. If these two algorithms agreed, we took the respective value; if not, we used the value of the algorithm that was certain with a probability greater than 80%. We experimented with other probability thresholds (65, 70, 75, 85, 90, 95, 100) but the 80% threshold offered the best performance results in terms of recall and precision. In case both algorithms were certain with a probability greater than 80% and calculated different results or if both algorithms were uncertain with a probability lower than 80% and disagreed, we assigned a value of 0, which is our neutral category. To aggregate values for newspaper articles to values for event dates, we first weighted newspaper-article-values by their probability and then used these weighted values to calculate the average per day. Events with a time difference of seven or fewer days are treated as one event, where we calculated the weighted value across all these days and flagged the result with the minimum date.

We then selected all negative events, which were three, and filled up the positive events to match the distribution in the manual coding sample. We ended up with seven positive events for TTIP and TPP. See Table 1 for the respective dates. Most of these events and their coding as indicating progress or stagnation are plausible given the available evidence. In October 2015, for instance, the TPP negotiations were concluded and in February 2016 TPP was signed formally. Both events are classified as indicating progress in our sample. In September 2016, Vietnam decided to delay the ratification of TPP. This event signals stagnation in the dataset. In November 2014, the first protests on TTIP emerged and we see a stagnation event in our data. Yet, we are surprised by the progress classification of 4 December 2014, which is the date when one million signatures were reached by the anti-TTIP campaign.

Figure AA.2 from the Supplementary File shows how these events affected the stock market returns of firms. For both agreements, the strongest reactions happened toward the end of the negotiation phase. Stocks of

Table 1. Positive and negative events.

| Date | Agreement | Value |
|------------|-----------|-------|
| 14-11-2009 | TPP | 1 |
| 14-11-2010 | TPP | 1 |
| 9-12-2011 | TPP | 1 |
| 14-12-2011 | TPP | 1 |
| 5-12-2014 | TPP | 1 |
| 19-12-2014 | TPP | -1 |
| 6-10-2015 | TPP | 1 |
| 4-2-2016 | TPP | 1 |
| 29-9-2016 | TPP | -1 |
| 22-11-2016 | TPP | -1 |
| 18-10-2013 | TTIP | -1 |
| 26-11-2013 | TTIP | 1 |
| 21-2-2014 | TTIP | 1 |
| 18-11-2014 | TTIP | -1 |
| 4-12-2014 | TTIP | 1 |
| 12-11-2015 | TTIP | 1 |
| 7-12-2015 | TTIP | 1 |
| 18-2-2016 | TTIP | -1 |
| 9-11-2016 | TTIP | 1 |
| 17-11-2016 | TTIP | 1 |

560 firms reacted strongly to the signature of TPP on 3 February 2016. Surprisingly, the majority of companies experienced a negative effect on their stock market returns. Contrarily, in December 2014, when the US government spoke up for fast-tracking TPP, stock market returns of nearly 400 companies increased. At the end of 2015, when the EU presented its new trade and investment policy strategy entitled Trade for All, stocks of 206 US companies reacted negatively. Similarly on 9 November 2016, when EU policy representatives announced a break in the TTIP negotiations, stock returns of 131 companies dropped. At the same time, however, the stocks of 1,302 companies gained in value.

To answer the question of who gains and who loses from progress on trade agreements, in the following analysis we interact the progress versus stagnation dummy with several firm characteristics. H1 makes us expect that the impact of these events on firms differs depending on the firms' size. We use the (natural logarithm of) firms' market value (from Worldscope) as a proxy for a firm's size (market value). Since our sample only includes companies listed on the stock market, the "small" firms in our sample are actually medium-sized. Illustratively, approximately 80% of all firms included had a market value of more than \$100 million in 2016. Nevertheless, we have considerable variation in terms of company size in our dataset, with the top 10% of firms having a market value of over \$12.6 billion in 2016.

In H2 we refer to the capital intensity of firms. Capital intensity means how much capital a company uses relative to labor in its production process. Using data from Worldscope, we measure this variable by dividing a company's market value by its number of

employees (capital intensity). Finally, H3 draws attention to the extent to which the companies are diversified. To operationalize this variable, we use the number of sectors at the 4-digit level of the Standard Industry Classification in which the companies are active (as coded in the Worldscope database; diversification). This variable ranges from 1 to 8, which is the maximum number of codes assigned by Worldscope, with the modal value being 2. In 2010, Microsoft was coded 8 on this variable (including "prepackaged software" and "computer peripheral equipment"), whereas Nvidia was coded 1 ("semiconductors and related devices") in the same year. The correlation between market value and diversification is 0.33. Larger firms hence are also more diversified, but the two variables are sufficiently distinct to empirically distinguish their effects.

3.3. Control Variables

In the models that we present in Table 2, we also include a dummy variable that captures whether a company had any foreign sales in the year of analysis. Data come from Worldscope, with missing values multiply imputed. For the year 2016, our data indicate that 56% of the firms in our sample had no foreign sales. Moreover, we include sector, year, and day of the week, and, in models 1 and 2, the agreement fixed effects. Doing so, controls for heterogeneity across industry sectors, time, day of the week (where Sunday announcements might be different to, for example, Tuesday events), and agreement. The sector fixed effects are at the top level of the Standard Industrial Classification.

3.4. Estimation

We estimate our model relying on ordinary least squares regression but using the method of alternating projections to get rid of multiple group effects. We also cluster standard errors by firm to account for correlations across events. Despite the control variables included in our models, we face the problem (common to all event studies) of ascertaining that the abnormal returns that we establish are really caused by the events that we single out rather than other information that investors receive. For example, news about the presidential campaign in the US during 2016 had an impact on the stock market returns of companies (Wolfers & Zitzewitz, 2018). We offer three responses to this concern. First, we have a relatively large number of both positive and negative events. The probability that other, random events are driving our results declines as the number of events that

we study increases. Second, we are testing interactions between events and firm characteristics. Other events that matter for stock prices thus only are a concern if they also matter conditionally in the same way we hypothesize the trade negotiation news to matter. Third, in robustness checks, we present models for which we re-estimate our models for randomly chosen dates. If we do not find the same associations as for our event dates, the plausibility of the conclusion that our event dates capture a real effect increases.

4. Findings

In model 1 (see Table 2), which includes three interaction terms, the coefficient for the progress × market value term is negative and statistically significant (Section B in the Supplementary File shows that we get very similar results when we run the analysis separately for the

Table 2. Regression models.

| | Model 1 | Model 2 |
|-----------------------------------------|-------------------------|-------------------------|
| Market value (log) | 0.0018 *** (0.0004) | 0.0020 *** (0.0006) |
| Progress | -0.0060 * (0.0030) | -0.0070 (0.0047) |
| Capital intensity | -0.0041 ** (0.0015) | -0.0041 ** (0.0015) |
| Diversification | -0.0003 (0.0003) | -0.0003 (0.0003) |
| Progress × Market value (log) | -0.0025 *** (0.0004) | -0.0022 *** (0.0006) |
| Progress × Capital intensity | 0.0012 (0.0017) | 0.0010 (0.0017) |
| Progress x Diversification | 0.0013 *** (0.0003) | 0.0013 *** (0.0003) |
| Foreign sales of total sales (dummy) | — | 0.0012 (0.0051) |
| Market value × Foreign sales | — | -0.0003 (0.0007) |
| Progress x Foreign sales | — | 0.0008 (0.0057) |
| Progress x Market value × Foreign sales | — | -0.0004 (0.0008) |
| Number of observations | 49,796 | 49,796 |
| R ² (full model) | 0.0799 | 0.0801 |
| R ² (project model) | 0.0099 | 0.0101 |
| Adjusted R ² (full model) | 0.0794 | 0.0795 |
| Adjusted R ² (project model) | 0.0094 | 0.0095 |
| Number of groups: Sector | 10 | 10 |
| Number of groups: Year | 6 | 6 |
| Number of groups: Agreement | 2 | 2 |
| Number of groups: Weekday | 5 | 5 |

Notes: * $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$.

two agreements). This is in line with H1. As our dataset excludes small companies that are not listed on the stock market, this result suggests that medium-sized companies benefit disproportionately more from progress in TTIP and TPP negotiations than large companies. Figure 1 supports this finding. The larger a company, the less it benefits from positive news on TTIP and TPP. In fact, a company with a market value of \$127 million experiences on average a 0.74% higher increase in its stock market value than a company with a market value of \$2,651 million.

H2 suggests that capital-intensive firms profit more from progress in trade negotiations than labor-intensive firms. In model 1, the coefficient for the interaction between progress and capital intensity is positive but fails to meet the required significance level. Figure 2 shows this effect graphically. This evidence runs counter to H2. Moreover, in model 1, we take up the expectation that news that trade negotiations are progressing well and are particularly beneficial for the stock market value of diversified companies. As expected in H3, the coefficient for the interaction term is positive and statistically significant. The substantive effect, however, is quite small: With one additional operating sector, a company earns 0.001 in cumulative abnormal returns.

We further explore the effect of market value in model 2, where we add a triple interaction term covering progress, market value, and foreign sales. The expectation that we presented in the argument is that medium-sized companies that did not yet export ben-

efit the most from a trade agreement. This is so as moving from non-exporting to exporting status comes with the highest growth opportunities. This should be less pronounced for large companies that can afford export expansion in the absence of trade agreements. Indeed, the coefficient of progress x market value, which represents large companies with no sales, is negative and significant. Keeping foreign sales constant at zero, therefore, we find that large companies lose more than medium-sized companies. In other words, size does not matter in the presence of foreign sales, but it does make a difference for firms with larger export opportunities. Medium-sized firms with no foreign sales seem to be the main winners of progress in trade agreements. This finding supports our causal argument, which emphasizes trade agreements allowing medium-sized companies to move from being non-participants to being participants in international trade.

4.1. Sectoral Effects

The effects of trade agreements also likely differ across sectors. To investigate this possibility, we interacted with the progress events in the sector and the three predictors discussed above. Contrary to the expectation of sectoral effects, Figure 3 suggests that the differences across sectors are generally relatively small. Large companies in all sectors lose in case of progress events. Diversification is significant and positive in all industries,

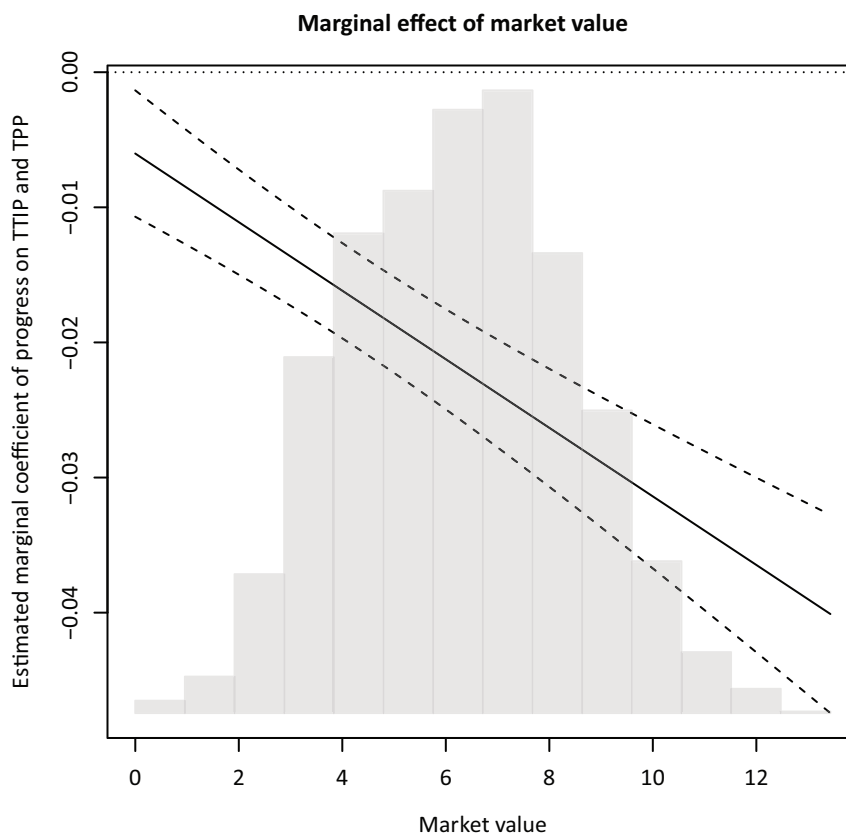


Figure 1. The interaction between progress and market value (based on Model 1 in Table 2).

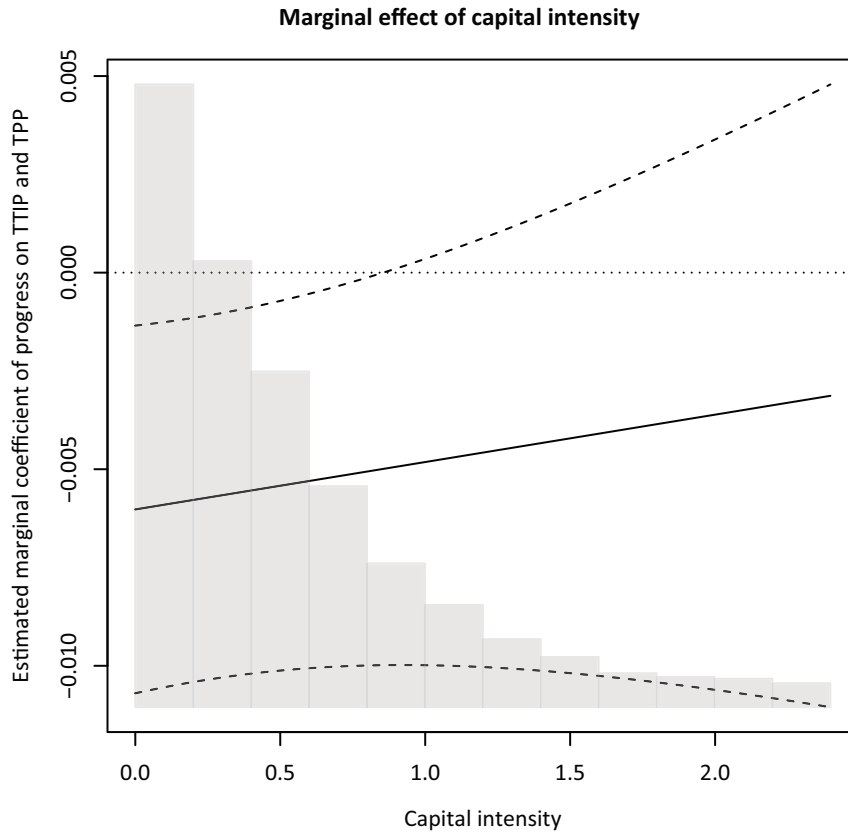


Figure 2. The interaction between progress and capital intensity (based on model 1 in Table 2).

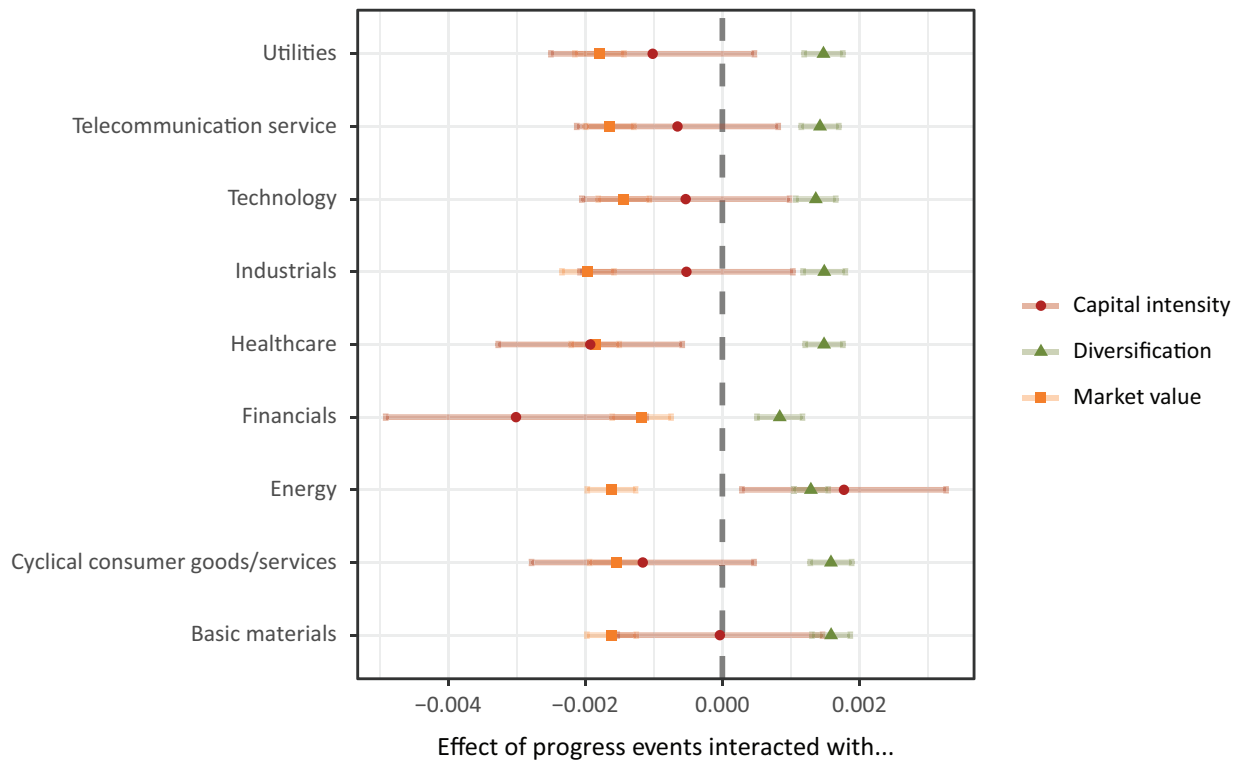


Figure 3. Progress events interacted with firm characteristics by sector.

but less pronounced in the financial services sector. Capital intensity comes with the largest standard errors. This coefficient is highest for companies in the energy and basic materials sectors and lowest for firms in the healthcare sector.

4.2. Robustness Checks

We conducted several robustness checks to see to which extent our findings are driven by specific decisions in terms of operationalization (see section C in the Supplementary File). First, we use bootstrapped errors in addition to clustered errors to ensure that the uncertainty contained in the generated dependent variable does not affect the results. Second, we calculated our dependent variable using the two alternative metrics that we presented in the research design section: an out-of-sample market-adjusted model and a mean-return model. Third, we varied the length of the event window for which we calculated the cumulative abnormal returns. Instead of a 5-day window, we used a 3 and a 1-day window. Fourth we dropped all firms that are not listed on any stock market in the US. Fifth, we dropped the 9 November 2016 event, which caused significant reactions from more than 1,300 firms in the sample. By dropping this event, we can make sure that our results are not driven by a single, particularly strong event. For all these tests, the results are similar to those presented above.

We also ran the models separately for the two agreements. The direction of the effects is generally the same in the two models. This suggests that the same mechanisms are at work for TTIP and TPP: large non-exporters lose, and medium-sized firms, as well as diversified firms, gain. Yet, Figures AB.3 to AB.5 in the Supplementary File show that the effects are more pronounced for TTIP than TPP. In general, progress in TTIP seems to generate lower stock market losses than progress in TPP. This may be a consequence of the greater differences in levels of development among TPP member states. These differences may lead to trade driven by comparative advantage, which tends to have greater distributional consequences than the intra-industry trade resulting from a trade agreement among countries at the same level of development.

Lastly, we ran a placebo test with 15 randomly chosen event windows (excluding events related to TPP or TTIP), which we treated as if they indicated progress in trade negotiations. For these events, we do not find support for our hypotheses. The interaction between a firm's size and the event dummy is statistically significant but positive. On the randomly chosen trading dates, therefore, larger firms won more than smaller firms. This result is plausible, as on average (given their greater productivity), one might expect large firms to see greater stock market gains than smaller firms. In light of this finding, the effects found for the event windows related to trade agreements appear even stronger, as the appropriate

comparison seems to be a positive effect and not a zero effect as assumed in the interpretation above. The interactions between the random event dummy and capital intensity and diversification, respectively, are not statistically significant. These results make it more plausible that our results above are really related to the TPP and TTIP negotiations.

5. Conclusions

Discussions over trade agreements circle the question of their distributional consequences: Who gains and who loses from them? Do large companies gain more than small ones? Are diversified firms better off than firms with a narrow product range? To answer these questions, we have assessed how the stock prices of US companies reacted to the news on the progress and stagnation of two major trade negotiations. A dataset on 3,926 companies and their characteristics has allowed us to investigate factors that explain varying reactions to news on the progress or stagnation of trade talks. Our empirical analysis has focused on negotiations over TPP and TTIP. These are ideal cases to study, as plenty of ups and downs characterize the negotiations over both agreements.

The central finding is much variation in the effects of the negotiations on the stock prices of companies even when controlling for the sector in which they are active. Our analysis suggests that medium-sized companies in particular (that did not yet engage in exports) were expected to gain from the two agreements. The effects that we find for capital intensity and product diversification are relatively small.

Overall, the findings of this article support the increasingly dominant view that sectoral models of trade policymaking are no longer sufficient to explain the impact of trade agreements. This should matter for analyses of trade preferences, both of firms and individuals. Regarding firms, our results indicate that trade agreements may broaden the set of winners to also include medium-sized companies, when compared to a situation in which trade is already quite liberal, but some important barriers to trade remain. At the individual level, because of trade agreements' heterogeneous effects across firms, citizens should not only differ in their preferences towards trade agreements depending on their skill levels or the sector in which they are employed, but also depending on the firm by which they are employed. The distributional effects of trade agreements for firms and individuals, therefore, are complex.

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Conflict of Interests

The authors declare no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the authors (unedited).

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About the Authors



Andreas Dür is a professor of international politics at the Department of Political Science at the University of Salzburg, Austria. He holds a PhD from the European University Institute in Florence (2004). His research on trade policy, interest group politics, and European integration has been published in three monographs, several edited volumes, and close to 60 peer-reviewed articles.



Lisa Lechner is an assistant professor for methods and methodology in political science at the University of Innsbruck. In her research, Lisa studies international treaties, such as trade agreements, bilateral tax treaties, and environmental agreements, as well as national and international jurisdictions by dint of inferential network and quantitative text analysis.

Article

Implementation of EU Trade Agreements Under an Assertive, Open, and Sustainable Trade Policy

María J. García

Department of Politics, Languages and International Studies, University of Bath, UK; m.garcia@bath.ac.uk

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Abstract

Since the 2010s the EU has expanded its preferential trade agreements, responding to challenges at the World Trade Organization and preferential trade agreements of key geoeconomic competitors. However, preferential trade agreements are only as good as their implementation. The EU *2021 Trade Policy Review* for a more assertive trade policy includes a greater focus on preferential trade agreement implementation. An analysis of preferential trade agreement implementation reports identifies challenges in operationalising these. It shows that since 2019 there has been an increase in EU recourse to formal dispute settlement mechanisms under preferential trade agreements demonstrating the shift to greater assertiveness. Interestingly, most of the cases are of limited economic significance to the EU but serve to reinforce the message of enforcement of trade rules.

Keywords

agreement enforcement; dispute; European Union; free trade agreements; preferential trade agreements; trade and sustainable development

Issue

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1. Introduction

Trump’s trade wars and overt challenges to the World Trade Organization (WTO), Chinese economic assertiveness, trade disruptions during the Covid-19 pandemic, and the war in Ukraine are the backdrop against which the EU has accelerated a trend towards the “geopolitisation of trade policy” (Meunier & Nicolaidis, 2019). The EU’s *2021 Trade Policy Review* represents the EU’s most overtly geopolitical trade policy and the presentation of the *2023 Economic Security Strategy* further reinforces that shift. Much of the commentary on this shift has centred on the unilateral measures adopted under these strategies, such as investment screening or the anti-coercion instrument (Erixon & Lamprecht, 2022; Gehrke, 2022), and on questioning the EU’s capacity to act geopolitically (Weinhardt et al., 2022). EU trade agreements are one of the three key components of EU trade policy, alongside unilateral trade measures and work at the WTO. They are, therefore, a key part of the

new trade policy, yet the impact of the new policy on these has been overlooked thus far by the literature. This article bridges this gap by turning attention to the implementation of EU trade agreements.

Focusing on the implementation of preferential trade agreements (PTAs) is especially relevant as the extensive literature on EU trade agreements has explained the rationale for PTAs (Dür, 2007, 2008; Eckhardt & Poletti, 2016; Garcia, 2013; Siles-Brügge, 2014) outcomes of negotiations (Adriaensen, 2016; Heldt, 2021), the politicisation of PTAs and trade policy (De Bièvre et al., 2020; De Ville & Siles-Brügge, 2015; Duina, 2019; Eliasson & Garcia-Duran Huet, 2018; Gheyle, 2020; Young, 2019), but with the exception of work unpacking the limitations of the trade and sustainable development (TSD) chapters in PTAs (Campling et al., 2016; Drieghe et al., 2022; Marx & Brando, 2016; Orbie et al., 2016, 2017; Potjomkina et al., 2020) has paid little attention to how well PTAs are implemented and what happens post-negotiations. Yet, the implementation of PTAs is

less straightforward than envisaged. As the European Commission Directorate-General for Trade (2022, p. 2) points out, the “impact [of its PTA network] depends on those agreements—alongside international trade rules—being properly implemented and enforced.”

This article highlights the need to focus attention on implementation processes and contributes to the literature by beginning to map and explore what policy areas raise challenges in PTA implementation and how these are resolved in practice, for example, through the work of joint bodies of PTAs or through legal dispute resolution to enforce the agreement. These insights deepen our understanding of the effectiveness of EU trade policies and of the EU as a trade actor. Given the new trade policy’s emphasis on PTA implementation, this article hypothesises that the number of complaints instigated by the EU within PTAs’ joint bodies should increase with the implementation of the open, sustainable, and assertive trade policy. A qualitative document analysis of EU PTA implementation reports was conducted to begin to ascertain what categories of issues are the focus of implementation challenges, establish the matters that are not resolved in joint bodies and end up in disputes, and ascertain whether the new trade policy has also correlated with increased PTA dispute activity, as we would expect from the focus on PTA implementation in the new policy. Drawing from recent scholarship on the characteristics of joint bodies created in PTAs tasked with the management and implementation of the PTA (Dür & Gastinger, 2021, 2023), we further hypothesise that problems in the implementation of PTAs are more likely to be resolved within discussions in joint bodies in EU PTAs with democracies, with more significant and interdependent economies, and in newer agreements where stronger joint bodies have been created.

The rest of the article is organised as follows. Section 2 introduces the key bodies for implementation and enforcement of PTAs. Section 3 contextualises PTAs within the *2021 Trade Review* and *2023 Economic Security Strategy* and charts expectations for enhanced PTA implementation resulting from these strategies. Section 4 describes the data sources used in the article and the approach taken to guide the data analysis. Section 5 categorises instances of implementation challenges and formal disputes to enforce PTAs reported in the European Commission’s reports on PTA implementation. Section 6 presents conclusions summarising conditions for the increased likelihood of disputes.

2. Implementation of Preferential Trade Agreements

PTAs are “living agreements,” as they rely on the implementation of what has been agreed upon and constant monitoring and negotiation of disagreements, as well as the creation of institutional arrangements to make future decisions to further facilitate trade between the parties. Institutional frameworks and their operation are therefore critically important. Beyond consultations,

collaboration, and discussions within committees, PTAs also incorporate formal dispute settlement mechanisms as a backstop to guarantee enforcement should collaboration and discussions fail. These ensure the legal enforceability of the agreements. Dispute settlement mechanisms typically include an initial stage of formal consultations between the parties. If this does not foster a solution, the complainant can then ask for a panel to be set up to arbitrate on the matter either within the WTO’s Dispute Settlement Body or for a panel to be set up under the PTA. PTAs, therefore, incorporate an implicit recognition of the possibility that aspects of the PTA might not be implemented properly and that the parties require legal processes of redress to ensure the enforceability of commitments undertaken in PTAs.

Recent scholarly work is turning attention to these frameworks. Political research has focused on the rationale for the emergence of joint bodies (Dür & Gastinger, 2023), whilst legal scholars have concentrated on the legal standing of these bodies and how this interacts with WTO and other legal commitments (Durán, 2020). Drawing on large-*N* analysis of PTAs, new research has focused on determining what types of international agreements are most likely to create joint bodies (association councils, committees, working groups), namely those between democracies where higher levels of trust facilitate empowering these bodies to make decisions (Dür & Gastinger, 2021). This scholarship has determined that the EU includes joint bodies with greater responsibilities and decision-making authority in international agreements with partners with whom it has greater economic interdependence. The reason for this is that increased openness and trade (as facilitated by a PTA) with close economic partners can also cause more economic competition if reciprocal commitments are not fully implemented (Dür & Gastinger, 2023).

By focusing resources on the joint bodies with larger more relevant partners and where there is a closer interdependent relationship, some of the costs of joint bodies (both logistical costs and sovereignty costs) can be offset in favour of particular outcomes (Dür & Gastinger, 2023, pp. 1077–1079). Arrangements under the Trade and Cooperation Agreement (TCA) with the UK exemplify this. The TCA presents a greater multitude of joint bodies under the Partnership Council and institutional avenues for cooperation. Moreover, it incorporates innovative arrangements for a “level playing field” and “rebalancing arrangements” to ensure that regulatory divergence does not lead to the UK lowering environmental and social standards to a degree that it outcompetes the EU for investment, and becomes a back door to the EU, given its close relationship and market access as guaranteed by the TCA. The arrangements enable the parties, for the first time under an EU PTA, to take direct actions, including restricting trade, if measures in the other party are lowering environmental and social standards, without the need to wait for arbitration or dispute settlement, although there are strict requirements and tests

before actions can be taken (Collins, 2021). However, it is unclear exactly how this will work, and by providing an avenue for the parties to override adverse third-party rulings, it can bring the TCA into question (Lydgate et al., 2021). Nonetheless, the intention is to exercise control over economic decisions elsewhere and guarantee the implementation of the TCA.

Extant literature is, thus, beginning to consider the implementation of EU PTAs in terms of institutional structures, especially with regard to the effectiveness (or lack thereof) of the provisions in the TSD chapters (Campling et al., 2016; Hradilova & Svoboda, 2018). However, it has yet to fully delve into the types of implementation challenges that are encountered and how these are resolved, including the effectiveness of the joint bodies and institutional arrangements of PTAs in resolving implementation difficulties as they arise. The key aim of this article is to highlight the need to focus attention on implementation processes and to contribute to the literature by beginning to map and explore what policy areas raise challenges in PTA implementation, and how these are resolved, for example, through the work of joint bodies of PTAs or through legal dispute resolution to enforce the agreement. Following Dür and Gastinger's (2021, 2023) findings on joint bodies, we would expect PTAs with economically more significant partners, with partners with whom the EU is more interdependent, democracies, and newer agreements that have a broader scope of issues to have more successful joint bodies where implementation challenges are resolved within these bodies without the need to trigger dispute settlement mechanisms to guarantee the correct implementation of commitments.

3. EU Trade Policy Review 2021: An Open, Sustainable, and Assertive Trade Policy and the 2023 Economic Security Strategy

The Commission's new trade policy was prepared at a time of global upheavals, amid supply chain disruptions and rising trade protectionism resulting from the Covid-19 health crisis and President Trump's unilateral trade policy and disabling of the WTO and its Dispute Settlement Body's Appellate Body. These highlighted EU trade dependencies and forced a rethink of trade policy, not just to face up to these challenges, but to support other key strategies of von der Leyen's Commission like the European Green Deal and European Digital Strategy, tasked with addressing key climate and economic recovery challenges. The trade strategy is justified by the need to "recover from Covid-19" and to "implement UN Sustainable Development Goals" (European Commission Directorate-General for Trade, 2021, p. 1) and represents the EU's most geopolitical trade policy to date. Although EU trade policy has always incorporated geoeconomic considerations (Garcia, 2013, 2015), the dominant discourse and projected image have tended to downplay these aspects.

The 2021 policy departs from previous ones by explicitly adopting a language that borrows from EU security discourses. The policy is described as leading to an "open strategic autonomy" that "emphasises the EU's ability to make its own choices and shape the world around it through leadership and engagement, reflecting its strategic interests and values" (European Commission Directorate-General for Trade, 2021, p. 8). It emphasises the need for the EU to identify and address strategic dependencies in supply chains, enhance the resilience and competitiveness of EU economies, ensure sustainability and fairness in trade, engage with the multilateral system and others to bolster the rules-based system, and increase the EU's assertiveness. This is further emphasised in the *2023 Economic Security Strategy* with its focus on reducing risks to supply chains, to EU technology and critical infrastructure and the single market, and the risk of weaponising economic interdependencies by means of promoting innovation and technological capacity, protecting the single market from unfair trade practices and partnering with others to strengthen international institutions and diversify economic ties through trade agreements (European Commission Directorate-General for Communication, 2023).

A series of new and updated unilateral trade measures have been developed to address this international context and operationalise this assertive policy (De Man et al., 2022; Erixon & Lamprecht, 2022; Ibáñez, 2023). These include measures to tackle economic distortions, defend against economic coercion and secondary sanctions, protect critical assets, and link values and sustainability to trade (Gehrke, 2022). Incipient literature on the "open, sustainable and assertive trade policy" has noted the dangers of these measures potentially leading to a more closed EU market and retaliation from trade partners (Erixon & Lamprecht, 2022; Gehrke, 2022), and how the measures with a more automatic application (Carbon Border Adjustment, Deforestation Initiative, Corporate Sustainability Due Diligence) are likely to apply to top trading partners like the US, China, and UK, increasing costs in trade (Ibáñez, 2023, p. 79). The difficulties the EU faces in acting in a geopolitical way, for example, member states pursuing greater trade with China at the expense of concerted action, the ambiguity of the Commission's framing of geopolitical and geoeconomic interests in trade measures (Weinhardt et al., 2022), and the absence of a "serious debate...on geopolitical interests and values" (Gehrke, 2022, p. 76) have been the other focus of the literature.

PTAs, the focus of this article, play an important part in the new economic strategy as part of the partnership pillar and in the open, assertive, and sustainable trade policy, but they have not been featured in the literature on the new trade strategy. The *2021 Trade Policy Review* committed to strengthening the EU's focus on correct implementation and full enforcement of PTAs' commitments and ensuring a level playing field through the following measures: (a) making full use of the opportunities

existing in PTAs by supporting stakeholders to utilise these and access the Access2Markets portal; (b) monitoring the proper implementation of PTAs; and (c) addressing non-compliance through the WTO or bilateral dispute mechanisms in PTAs (European Commission Directorate-General for Trade, 2021, p. 22). PTA implementation is, therefore, an important aspect of the EU's more assertive and geopolitical trade policy.

The *2023 Economic Security Strategy* further reiterates the significance of PTAs as one of the EU's tools to achieve its commercial interests. The strategy revolves around three pillars: (a) promoting EU economic competitiveness (boosting innovative technologies, improving the single market); (b) protecting the EU's economic security (e.g., investment screening, preventing corporate links that could result in technologies going elsewhere, or EU infrastructures being accessible to foreign powers, using trade defence instruments); and (c) partnering with countries with similar concerns and interests, including through PTAs to ensure compliance with international rules and diversify supply chains and economic ties (European Commission Directorate-General for Communication, 2023, p. 3). Full implementation of the EU's PTA network, and expansion of the network, is considered an important step towards diversifying supply chains, "de-risking" business, and reducing interdependencies (European Commission Directorate-General for Communication, 2023, p. 13), and is an integral part of the partnering pillar of the strategy. Supply chain disruptions and protectionism at the height of the Covid-19 pandemic and further disruptions caused by Russia's invasion of Ukraine in 2022 account for rising concerns within the EU and the desire to take a more geopolitical approach to trade and economic policy, as described in the *Economic Security Strategy*.

So what do these strategies mean for PTAs and their implementation? The *2021 Trade Policy Review* (European Commission Directorate-General for Trade, 2021, p. 10) includes respect for global trade rules and implementation of PTAs as two of the three core objectives of the policy, and PTAs are a key part of the partnership pillar of the Economic Security Strategy. In light of this, we would expect the analysis of the implementation of PTAs to reveal a concerted effort to ensure PTAs are being correctly implemented, with an increase in the number of matters being discussed, resolved, and, when not resolved, an increase in the number of implementation challenges leading to disputes to ensure enforcement of commitments from 2020, the time when this policy was developed. We would also expect a rise in disputes related to sustainability, as worker protection is also considered a key aspect of the *2021 Trade Policy Review* (European Commission Directorate-General for Trade, 2021, p. 10), not in vain, the Trade Review dovetailed in time with the European Commission's review of the 15-point action plan for the implementation of Trade and Sustainability Chapters in PTAs which was undertaken in 2021–2022 following the 2018 15-point plan.

The reform resulted from the 2017–2018 debate instigated by the European Commission on improving the effectiveness of TSD chapters in PTAs. Responding to criticisms from the European Parliament and civil society groups over the weak enforceability of labour and environmental commitments in PTAs, given the TSD chapters' sui generis dispute resolution mechanism, modelled on International Labour Organisation (ILO) procedures and eschewing possible financial penalties and trade preference withdrawal, the European Commission launched discussions on TSD. The 15-point action plan eschewed a sanctions-based model and instead proposed a series of measures to improve the implementation of TSD chapters, including improving coordination with the European Parliament and member states, improved monitoring, financial assistance to stakeholder groups to support the monitoring of the implementation, and making greater use of the sui generis dispute resolution mechanism (European Commission, 2018a).

The dynamics of the reform, including pressures from civil society and the European Parliament, and the reform per se lie beyond the scope of this article but have been analysed elsewhere (see Durán, 2020; Harrison et al., 2019; Hradilova & Svoboda, 2018). What is relevant for this article, is the emphasis placed on the implementation of TSD chapters in PTAs. Given this background, we would also expect more mentions of environmental and labour matters in PTA implementation documents and more reliance on disputes. To determine if this is the case and begin to categorise the kinds of challenges that arise in PTA implementation and the subjects that lead to disputes, we now turn to the EU's PTA implementation reports, which focus on implementation between 2016 and 2021.

4. Approach and Data

Since 2017, the European Commission has published an annual report on the implementation of its PTAs in the preceding year. These reports cover all EU PTAs, and as new PTAs are ratified and entered into force, these are also included in the next report. These reports are an important source of information on PTA implementation, as they are compiled using official trade statistics, information from EU delegations around the globe, and by those with access to the various joint bodies, i.e., joint committees created by the PTAs and the discussions undertaken in each of these with PTA partners. Crucially, they report on the same information in a consistent way year-on-year, making it easier to compare across years and to trace developments over time. PTA implementation reports are publicly available from the European Commission website. These are available between 2017 and 2022, so a total of six years are covered in this article. This is a convenience sample based on the years for which reports are available. Unfortunately reports from previous years are not available and joint committee minutes are not uniformly available. The timeline that is available

covers two years prior to the start of the von der Leyen's commission and its geostrategic shift (2016–2018) as well as the years when the new trade policy was being designed (2019–2020) and the initial year since its launch (2021), allowing for some initial observations of whether more challenges are being raised and whether more disputes are being initiated under the new policy.

The format of the reports changes slightly from year to year. The initial report presents information by PTA grouping (earlier PTAs pre-dating 2006; Eastern Neighbourhood countries; Economic Partnership Agreements with African, Caribbean, and Pacific states, more modern post-2006 PTAs). Subsequent reports do that as well, but also carve out specific sections to report on key themes across PTAs, namely agri-food and the trade and sustainability chapters where progress and challenges in all PTAs are discussed, showing that these are two areas of particular concern to the EU. From 2021, the reports take a different format and amalgamate the Commission's report on the implementation of PTAs with other trade enforcement actions (including at the WTO) and include some comments on submissions to the Single Entry Point, created in the *2021 Trade Policy Review*, that enables firms and stakeholders to submit to the Chief Trade Enforcement Officer's team their examples of non-implementation of PTAs and trade barriers they encounter for direct investigation. It is important to note that these reports do not include information that the European Commission reports on separately, namely the implementation of trade preferences and compliance with conditionality under the EU's generalised system of preferences with developing states, foreign direct investment screening, use of trade defence instruments (anti-dumping, anti-subsidies, and safeguard measures), and activities on infringements of intellectual property rights.

Given that the focus of this article is PTAs, the absence of these aspects does not constitute a problem. As this article aims to explore challenges in the implementation of EU PTAs and how the EU reacts to these in light of the new open, sustainable, and assertive trade policy, within the joint committees for PTA implementation and/or through recourse to dispute settlement, the reliance on documents from the European Commission does not introduce a bias into the study. Although not the focus of this particular article, the Commission's reports do mention concerns raised against EU practices by PTA partners, showing they relate to what is covered in the joint committees and not just EU concerns. These reports highlight the most relevant issues relating to each PTA and may be missing discussions on matters that are not conflictual and examples of collaboration or socialisation and cross-fertilisation of ideas on making regulations or policies on certain issues that may arise from the formal and institutionalised discussions at joint committees. Although the most recent report presents a general summary of cases reported directly by business and civil society to the Chief Trade

Enforcement Officer through the Single Entry Point, it fails to provide details of these; it is therefore not possible to ascertain whether business and civil society are reporting the same concerns as those being raised in joint committees of PTAs or other issues. For this reason, a Freedom of Information request was made to the European Commission to receive documentation on the Single Entry Point since its inception. Another request was made for minutes and documents of the joint committees for PTAs, as these are not available in a consistent manner online. Although the request has not been rejected, it has been subjected to various delays, meaning it has not been possible to collect this data in time for this thematic issue.

The implementation reports were analysed and coded manually. An inductive approach was deployed to ascertain from the data in which policy area implementation problems arise. This approach is consistent with the exploratory nature of the article aimed at gaining insights into implementation challenges and uncovering relationships to be examined in future larger studies. Areas mentioned in the reports as examples of inappropriate implementation or of concerns expressed by a party in the annual joint committee meetings were coded and grouped into the PTA chapter theme they correspond to. For instance, problems registering specific wine or cheese names fall under geographic indications (a particular type of intellectual property right), instances of food animal products not being allowed into a market due to concerns over safety (e.g., following an outbreak of swine or bird flu) correspond to sanitary and phytosanitary (SPS) matters. In the table in the Supplementary File, the PTA chapter theme has been included and highlighted in colour for greater ease of identification. Where specific concerns or problems were mentioned, these were tracked and coded in all subsequent reports to trace the evolution through to resolution within the joint committee, resolution following dispute settlement consultations or going through to a formal dispute settlement panel. Specific cases of disputes appear in red in the Supplementary File and are discussed in the next section. The coding of disputes included coding the stage of the dispute (within each Report), the PTA partner involved, the topic of the dispute, and the venue chosen for the dispute. PTAs allow the parties to choose where they wish to raise a formal dispute. They may take this to the WTO Dispute Settlement Body or they may request a panel of arbitrators be established under the PTA. PTAs preclude the same dispute being pursued simultaneously in different venues. What is relevant for our purposes is that a formal dispute is initiated, as that shows an issue has not been resolved within the joint bodies of the PTA.

5. Implementation Challenges in EU Preferential Trade Agreements

Over time, the EU has established PTAs with countries around the world, although not with its strategic

partners, rivals, and largest trade partners (the US, China, and Russia). Since the Global Europe trade strategy of 2006, the EU has engaged in new generation PTAs with Asian and American states designed to ensure greater market openness and avoid losing competitiveness vis-à-vis the US or China. It has engaged in deep and comprehensive PTAs with its neighbourhood as part of the Eastern Partnership. In 2000, the Cotonou Convention (replacing the Lomé Agreements) committed the EU and countries in the Africa, Caribbean, and Pacific group to negotiate new Economic Partnership Agreements, with reciprocal trade concessions as the WTO waiver allowing EU unilateral preferences for African, Caribbean, and Pacific states expired. The EU also has older PTAs, mostly with partners in its neighbourhood, from the 1990s and early 2000s. Older agreements are less advanced in various disciplines, including TSD chapters, which were first introduced in the 2011 PTA with South Korea. Prior to those, the EU has agreements with its Southern Mediterranean neighbours, a Customs Union with Turkey, and agreements with Norway and Switzerland. The table in the Supplementary File lists the various PTAs that are covered by the EU's PTA implementation reports. Given the absence of dedicated TSD chapters in older PTAs, PTA joint committees for these will not be discussing concerns regarding these matters nor can disputes be brought on this.

PTA implementation reports present a positive narrative of PTAs. They point to increased trade statistics and include mini case studies of EU firms that have benefitted from an agreement (e.g., how ASKET, a Swedish online-only men's ethical clothes firm, benefits from exports through PTAs; European Commission Directorate-General for Trade, 2019, p. 12). All reports stress EU cooperation with partners, especially with developing partners and near neighbours pointing to specific EU-funded technical capacity-building projects (Aid for Trade projects) to help these countries close the capacity gaps that preclude them from fully implementing the commitments in the PTAs, especially to

bring regulations closer to EU regulations (European Commission, 2017; European Commission Directorate-General for Trade, 2019, 2022).

When it comes to concerns relating to the implementation of PTAs, the reports focus on instances of partners' non-implementation that have been discussed in the meetings of the joint committees. Issues raised across all reports show a predominance of SPS measures in agricultural trade matters, as well as issues relating to intellectual property rights, mainly the incorporation of new EU geographic indicators and performance rights (see Figure 1). Technical barriers to trade (TBT), for instance in relation to certificates, or domestic spirit taxes also feature prominently, as do matters relating to transparency in public procurement processes and access for EU firms to contracts at different levels of government.

Key concerns raised relate to so-called "behind the border" trade issues, as these relate to domestic rules, standards, and regulations that states are often unwilling to alter. These are also the issues most likely to create tensions in PTA negotiations (see, for example, Kneller, 2020; Khorana & Garcia, 2013; Nicolas, 2009). Moreover, in the cases highlighted by the EU relating to wines and spirits (e.g., the provincial taxes and regulations in Canada and the differential taxes in Peru and preferential treatment for local pisco; European Commission, 2017, 2018b; European Commission Directorate-General for Trade, 2019), the authority to make changes lies with sub-national levels of government, that may well disagree with the commitments the central government has undertaken in the PTA. Nonetheless, the reports, especially from 2019, highlight progress made by the counterparties on these matters, including legislative changes, and attest to the use of joint committees to discuss matters and pressure partners into adapting to implement PTA commitments. This is in line with the hypotheses suggesting increased assertiveness as a more assertive trade policy takes shape and suggesting a greater likelihood of resolving matters within joint bodies in PTAs with other democracies.

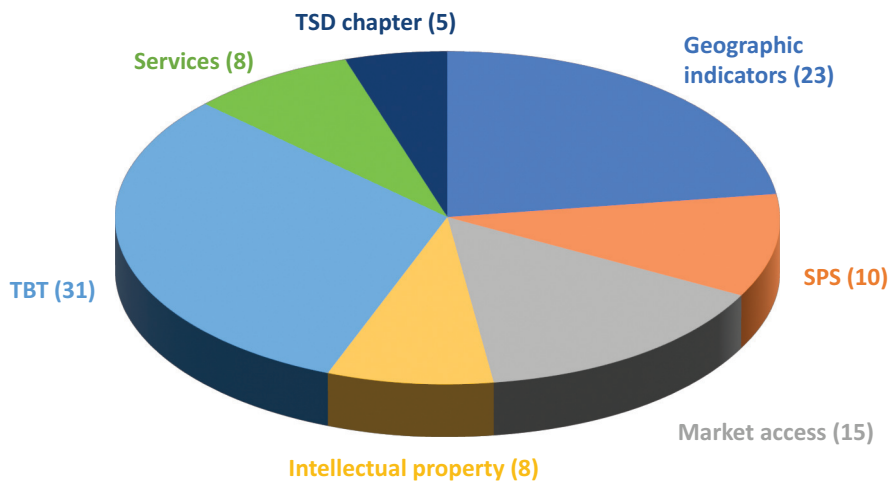


Figure 1. Most frequent issues reported as problems in PTA implementation reports, in % (2017–2021).

After SPS, geographic indicators, procurement and TBTs, market access is the most relevant category of concern. These have tended to focus on agricultural goods (e.g., improved access for beef exports to South Korea and Latin American states, gaining recognition from partners of EU regionalisation of animal supply chains to avoid temporary measures as a result of disease outbreaks being applied to all EU exports; European Commission, 2017, 2018b; European Commission Directorate-General for Trade, 2019), as well as in relation to specific actions by partners (e.g., Colombia’s import ban on frozen potatoes from the Netherlands, Belgium, and Germany; European Commission Directorate-General for Trade, 2019). Concerns over access for service providers have been noted in the case of Ecuadorian proposed rules for insurance providers, Japan’s courier and postal services, and Korean car repair and maritime transport services (European Commission, 2021). The table in the Supplementary File summarises key concerns raised in each of the reports. It shows how some concerns have disappeared, this represents progress made in the discussions and changes in practices. These show the potential for resolving matters within the joint committees and the importance of joint bodies as fora for amicable conflict resolution and a locus for influencing partner’s future policies and regulations. The reports highlight how discussions within the committees led Ecuador to drop localisation requirements for patents and a pro-

posed Ukrainian law for requirements for patents never materialised (European Commission, 2020).

However, not all matters are resolved in discussions. Figure 2 shows the cases when the EU has made recourse to dispute settlement processes within PTAs. In 2016, under the terms of the PTA with Peru and Colombia, the EU requested consultations and a panel at the WTO to address discriminatory taxes on spirits in Colombia. This triggered renewed interest from Colombia to discuss the matter and the case was dropped as Colombia changed its spirit tax laws. Since 2019, the EU has made more frequent recourse to dispute settlement procedures. Although this predates the *2021 Trade Policy Review*, it dovetails in time with the change of Commission, von der Leyen’s desire for a more geostrategic Commission, and the preparation of the new trade policy. It is also two years into Trump’s presidency, by which point the world was immersed in a series of trade confrontations and the WTO was seriously undermined. Against this backdrop, it is unsurprising that the EU would seek to implement PTAs in a more forceful manner, as its 2021 policy and subsequent *2023 Economic Security Strategy* demand.

From 2019 to date, the EU has initiated eight disputes within PTAs: five related to market access for goods (Colombia, Southern African Customs Union, Algeria, Turkey, Egypt), one related to supplies (Ukraine), one to access services and investment (UK), and one to TSD chapters (South Korea). In 2019, the EU started

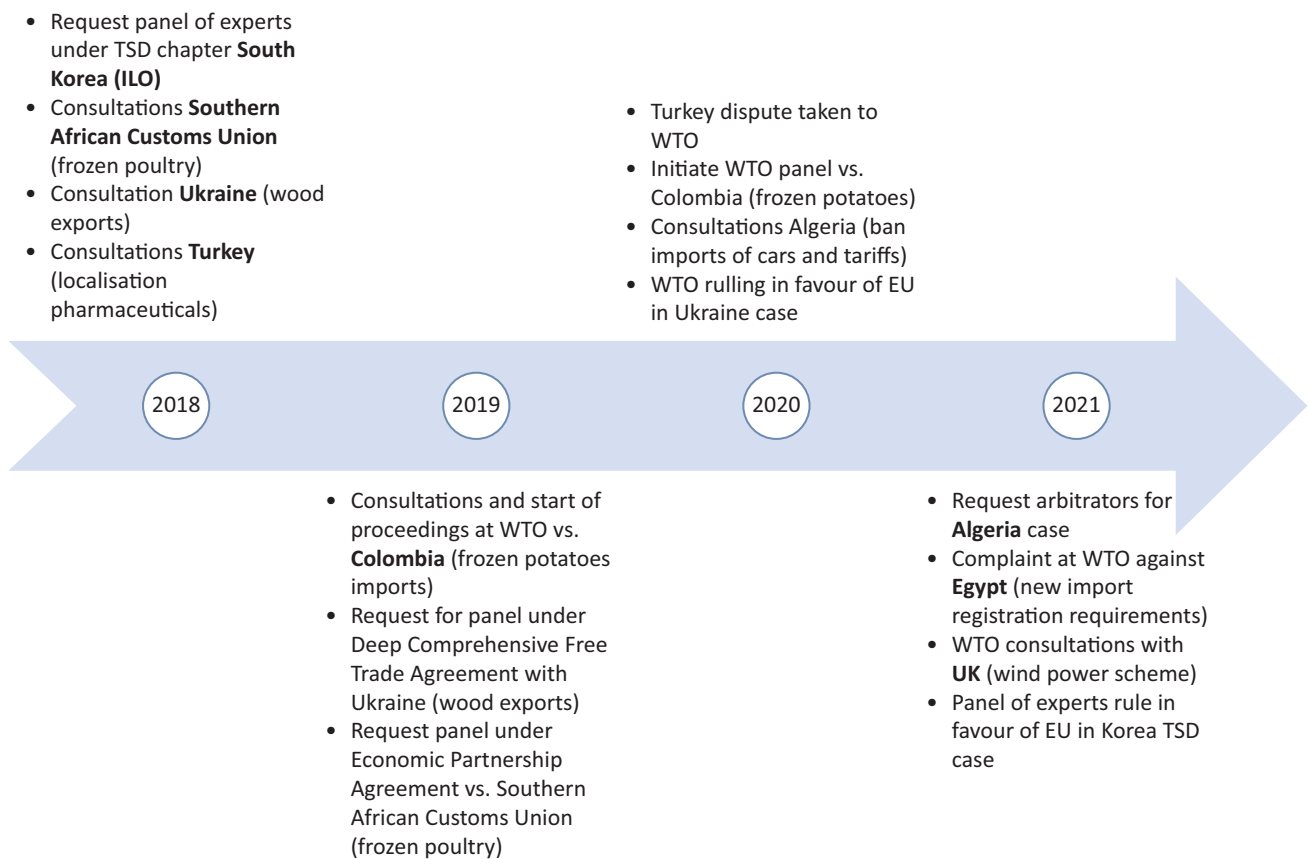


Figure 2. Disputes under EU PTAs.

consultations with Ukraine over its ban on the export of unprocessed wood. This continued to the establishment of an arbitration panel under the PTA the following year. The panel ruled in favour of the EU in December 2020; however, the implementation has been postponed due to the outbreak of war (European Commission Directorate-General for Trade, 2022). Crochet (2022) argues EU trade defence measures, like this one, are designed to guarantee EU access to raw materials, discouraging partners from processing goods themselves; it also represents a form of “extractivism.” As the EU’s own report admits during the time of the ban, Ukraine’s processed wood exports to China multiplied dramatically (European Commission Directorate-General for Trade, 2022).

In 2018, consultations were also requested under the Economic Partnership Agreement with the Southern African Customs Union over safeguards on the import of frozen poultry, leading to a request for a panel in 2019 and ongoing arbitration. In 2019, consultations were started at the WTO over Colombia’s ban on imports of frozen potatoes from some EU states; this led to the establishment of a panel the following year. In December 2022, the panel ruled in favour of the EU, and the EU and Colombia have agreed Colombia will implement changes in November 2023 (WTO, 2023). In 2018, the EU requested consultations at the WTO with Turkey over its localisation requirements for licensing of pharmaceutical products for the public health service, which could prevent imported drugs from being reimbursed and widely available. In 2020, the EU requested a panel at the WTO. In 2020, the EU requested consultations with Algeria over its ban on car imports and certain tariffs, and this proceeded to the panel stage in 2021, although the consultations did lead to the removal of over 100 tariffs (European Commission Directorate-General for Trade, 2022). In 2021, the EU started consultations at the WTO with Egypt over new import requirements. Pharmaceutical exports are amongst the EU’s top exports, and car exports, whilst less economically important, are also important to the EU economy and core EU states like Germany.

Using PTAs to ensure that existing market access is retained and moving to open dispute if an agreement cannot be reached in joint committees is unsurprising. What is more interesting about the cases relating to market access in goods is that some of these are of little economic value to the EU as a whole yet the EU has chosen to pursue these through dispute settlement (e.g., frozen potatoes from three EU member states to Colombia). In these cases, the EU is opting to proceed with disputes to ensure that partners implement all aspects of PTAs and to signal the intention to ensure that trade rules (both in PTAs and WTO) are complied with.

The symbolism of these actions is important, both domestically to show that the EU is implementing its own trade strategy and dispel criticisms from agricultural lobbies and civil society, as well as externally to

demonstrate to affected partners and others that the EU will not shy away from pursuing disputes to ensure that commitments in PTAs are enforced. It is also important to note that in most cases of PTAs affected where implementation challenges have ended up in disputes and not resolved within the discussions in the joint bodies (except the TCA), these were PTAs with states that are not dramatically important to the EU’s economy as a whole and in half of the cases (Algeria, Turkey, and Egypt) these are older PTAs covering a more limited scope and therefore creating fewer opportunities for issue-linkage in joint bodies. This aligns with expectations derived from Dür and Gastinger’s (2021, 2023) explanation of stronger joint bodies. In these last cases, commitment to the joint bodies is weaker as are the bodies’ powers and the inability to reach solutions within the joint bodies then triggers the initiation of disputes.

The 2021 consultations opened by the EU at the WTO with the UK under the post-Brexit TCA over the UK’s scheme to support wind power generation through tax refunds were successful and did not lead to arbitration (European Commission Directorate-General for Trade, 2022). The significance of opening a dispute (albeit in the early stages of one) was to demonstrate the willingness to ensure commitments are enforced properly. This was especially important given the fraught relationship between the UK and EU at the time over the Northern Ireland Protocol and disputes relating to that (see Murray & Robb, 2023). Given the interdependence of the relationship and strength of the joint bodies created in the TCA, it is surprising this was not resolved within the joint bodies; however, during the first year of the TCA, Prime Minister Johnson’s government’s virulent relationship with the EU over the Northern Ireland Protocol meant that the joint bodies did not operate as they should.

The final dispute has been under the TSD Chapter of the South Korea PTA. This dispute started in 2018 with consultations that led to a panel being established in 2019 under the TSD *sui generis* dispute settlement. This case was especially relevant as it was the first case brought under the scheme. It dovetailed in time with the implementation of the 15-point action plan on TSD implementation. Korea had not ratified the core ILO conventions, a substantive provision of the PTA (Durán, 2020, p. 1040), and its laws on trade unions ran counter to these and limited labour’s bargaining and association rights (see Van Roozendaal, 2017). The panel of experts agreed with the EU that Korea needed to make relevant changes to its laws, even if it was not gaining a trade advantage through its ILO-incompatible practices, and Korea subsequently changed its labour laws, ratified three out of the four outstanding ILO core conventions, and continues work to ratify the final one (European Commission Directorate-General for Trade, 2022). Nonetheless, it is important to note that the dispute was opened four years after stakeholder groups involved in monitoring the TSD chapter requested this action, and only once a more pro-labour government

under President Moon took office in 2017 and started to make reforms. The dispute, in fact, was triggered by a reversal of reforms. Nissen (2022) argues that in the dispute the EU focused on industries and workers that it would be most successful in getting South Korea to make reforms for, eschewing an opportunity to be more assertive in the dispute. Despite stakeholders' voiced concerns over violence against trade unionists in Colombia and certain labour practices in Vietnam, no consultations have been called with these partners to date. The PTA implementation reports do mention these and suggest satisfactory engagement and progress in regular discussions under the scope of the joint committee for TSD set-up by the PTAs and engagement in collaborative projects with these partners and the ILO, indicating that what appears to matter most is positive engagement within the joint committees and gradual improvements and that this can prevent formal disputes from arising.

6. Conclusions

This article contributes to the incipient literature on a more assertive trade policy by focusing on matters arising in the EU's implementation of PTAs. An analysis of European Commission PTA implementation reports reveals challenges to the implementation of PTAs. The Commission's key concerns tend to relate to the adoption and registration of EU geographic indicators, SPS barriers to agricultural exports, TBT matters, and access to public procurement markets. Most matters are eventually resolved within the regular discussions in the joint committees for implementation and monitoring of PTAs.

There have been few formal disputes brought under PTAs. However, what is clear is that these tend to occur when there is no engagement from the partner with EU concerns. In the cases that have been concluded, the EU has been successful (Ukraine wood export ban, Colombia ban on frozen potato imports, Korea ILO ratification), showing that the EU is not pursuing spurious cases but genuine breaches of PTA commitments. From 2019 onward, it is possible to observe an increase in disputes under PTAs. This dovetails in time with the changes in the international trade system, the undermining of the WTO by President Trump, and the start of discussions that led to the *2021 Trade Policy Review* and more assertive EU trade policy. The scarcity of cases and data to date (including a lack of details on the Chief Trade Enforcement Officer's caseload) poses challenges to determine with precision when the EU will trigger a dispute under a PTA. Further research once more cases are available and triangulation with materials from stakeholders would help to unpack more precisely the pressures leading to specific disputes.

Nonetheless, this article does present preliminary evidence that in line with findings relating to the design of joint bodies in international agreements (Dür & Gastinger, 2021, 2023), disagreements tend to be

resolved in joint bodies without leading to dispute settlement in more recent PTAs with broader scope, with economies with more interdependence with the EU, and more established democracies. These will be important variables to consider in future research on the workings of joint committees as more materials and testimonies from participants become available. Above all, this article advocates the value of focusing on the implementation of PTAs as part of the EU's broader agenda of assertive trade policy and of considering the symbolic importance of disputes. Most disputes relating to market access that the EU has instigated are of little economic relevance to the EU, but they serve to make the critical point that the EU will enforce its PTAs and demand respect for trade rules and commitments, which is the key message of the *2021 Trade Policy Review* and the *2023 Economic Security Strategy*.

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Conflict of Interests

The author declares no conflict of interests.

Supplementary Material

Supplementary material for this article is available online in the format provided by the author (unedited).

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About the Author



María J. García is an associate professor and head of the Department of Politics, Languages and International Studies at the University of Bath (UK). Her research focuses on EU trade policy and the political economy of free trade agreements. She is co-editor (with S. Khorana) of *Handbook of EU and Trade Policy* (2018, Edward Elgar) and (with A. Gómez-Arana) of *Latin America–EU Relations in the 21st Century* (2022, Manchester University Press), and a member of the UK’s Domestic Advisory Group for the implementation of labour and environment chapters in UK trade agreements.

Article

Europe’s Global Gateway: A New Instrument of Geopolitics

Eugénia C. Heldt

School of Social Sciences and Technology, Technical University of Munich, Germany; heldt@tum.de

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Abstract

In December 2021, the EU member states agreed on the Global Gateway strategy to mobilize public and private funds of up to €300 billion between 2021 and 2027, to invest in digital, climate and energy, transport, health, education, and research fields. With a geographical focus on Africa, Global Gateway links infrastructure investment projects with condition principles—including democratic values, good governance, and transparency—and catalyzes private investment into EU development financing. Against this backdrop, this study explores why EU member states agreed on this new geopolitical instrument. This piece posits that the confluence of three factors enabled the creation of Global Gateway. First, the EU established this new instrument to counter China’s role as a global infrastructure lender in Africa. Second, Global Gateway was possible through the shift to private investment in multilateral development financing. Equally important for the establishment of Global Gateway was the European Commission’s transformational leadership as an entrepreneurial agent in designing this geopolitical strategy of the EU’s power projection. The conclusion outlines future research avenues and enables readers to consider the wider prospects and caveats of the Global Gateway strategy.

Keywords

Africa; China; entrepreneurial agent; European Commission; geopolitics; Global Gateway; global infrastructure development; private investment

Issue

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1. Introduction

On December 1, 2021, the member states of the European Union (EU) launched a strategic and investment plan—the Global Gateway initiative—aiming at mobilizing public and private funds of up to €300 billion by 2027 in a mixture of existing development policy programs, loan guarantees, and “crowd in” private investment to finance infrastructure projects abroad. With a geographical focus on Africa, the Global Gateway Africa Europe Investment Package is endowed with €203 million from the EU budget for 2021–2024. Similar to multilateral development financing, the EU links spending on global infrastructure programs with conditionality rules, including democratic values, good governance, transparency, equal partnerships, and sustainability. Investment priority areas include climate and energy, digital technology, transport, health, research, and education (European Commission, 2021b). With Global Gateway, the EU

entered the race for global infrastructure financing with China by building up its own sphere of influence to foster economic relationships through catapulting trade and investment as geostrategic “key EU foreign policy tools” (European Union External Action, 2022, p. 253).

Against this backdrop, this contribution explores *why* EU member states decided to establish Global Gateway as a new geopolitical instrument. This study posits that a combination of external and internal factors—the rise of China as a geopolitical power, the shift to private investment to finance development projects, and the transformational leadership of the European Commission—contributed to the adoption of Global Gateway as a new European geopolitical strategy. First, the EU was motivated by the rising influence of China in Africa and thus decided to initiate Global Gateway as an instrument of EU power projection, to create its own sphere of influence, especially in a region that had been of long-standing diplomatic (and historical) interest to, and

engagement by, the EU that of late risked falling prey to China's growing and assertive statecraft. Second, Global Gateway was possible through the shift to private investment in multilateral development financing. With this new instrument, the EU can also support the European business sector, facilitating their competition with Chinese state-owned companies. Third, the Commission played a decisive role as a transformational leader and entrepreneurial agent supported by powerful EU member states. The Commission embraced this opportunity by designing a geopolitical strategy that facilitated private sector investments to finance infrastructure development worldwide.

This contribution advances the literature in several ways. First, the literature on the EU's actorness in global governance contends that the unity of the member states, defined as their ability to present a single stance internally and defend it externally, is a necessary condition for European actorness and effectiveness (da Conceição-Heldt & Meunier, 2014; Damro et al., 2017; Drieskens, 2017). This rich stream of literature, however, disagrees with the extent to which the unity of member states shapes the EU's ability to act as an effective external actor (Delreux, 2014; Macaj & Nicolaidis, 2014; Meunier, 2014). The literature to date has to a lesser extent studied how the Commission can use a general mandate from the collective principal (member states assembled at the Council of the EU) to act as a transformational leader. This study fills this gap by zooming into the entrepreneurial agent role of the Commission, which proactively pushed for a more visible role for the EU foreign economic policy matters that were linked to a new geopolitical strategy. In so doing, this piece illustrates how entrepreneurial agents—understood as those European officials with an incentive to push for the expansion of policy programs—matter in the process of gradually transferring more competencies to the European level.

Second, this study is among the first to examine Global Gateway as an instance of the EU projecting its power to create its own sphere of influence. To be sure, the EU has used its economic power in the past by concluding a multitude of bilateral and multilateral trade agreements with third parties (see Gstöhl & De Bièvre, 2018). Yet, this is the first time that EU member states agreed on a joint strategy to create their own sphere of influence and “weaponized” economic power (see also Farrell & Newman, 2019) in a deliberate way to pursue geostrategic objectives. To the best of my knowledge, this is the first time that the EU acted as a geopolitical power by practicing power politics using economic means.

Finally, this study engages with a new stream of literature that focuses on the geopolitization of EU politics (Haroche, 2023; Matthijs & Meunier, 2023; McNamara, 2023; Meunier & Nicolaidis, 2019). By so doing, it contributes to this new school of literature by linking geopolitical concerns with global development

financing literature—de-risking strategies of global development lending by turning to public–private partnerships (PPPs) and venturing into financial capital (Gabor, 2021; Mawdsley, 2018)—and the competition between economic powers (the EU and China) in the race of spheres of influence in the Global South (see also Benabdallah, 2019, 2021). To explain the enactment of Global Gateway, this study zooms into the rise of China as a global infrastructure lender—which motivated the positioning of the EU in the geopolitical arena—and the shift to private capital to finance development projects.

To trace the establishment of Global Gateway, this article draws on four sets of empirical material: primary sources, discourses, media articles, and policy papers. By doing so, it relies on discourses of EU actors such as the Presidency of the EU, the president of the European Commission, the High Representative of the Union for Foreign Affairs and Security Policy (hereafter, the EU High Representative), and public statements of high-level EU officials and national government representatives. It also explores EU primary sources such as documents from the Commission, the European Parliament, and the Council of the EU. Finally, the article relies on specialized media on the EU (e.g., *Europe's Daily Bulletin* (Agence Europe), *Politico*, and *EURACTIV*), policy papers, and reports.

The article proceeds as follows. The next section presents the central argument building on major EU, delegation literature, geopolitics, and multilateral development financing literature to explain the origins of Global Gateway. The empirical section examines how the confluence of three factors—the rise of China as a global infrastructure financier in Africa, the shift to private investment to finance multilateral development projects, and the transformational leadership of the Commission as an entrepreneurial agent—enabled the adoption of Global Gateway. This is followed by a section engaging with the reactions of African target countries to the Global Gateway initiative. The conclusion outlines future research avenues enabling readers to consider the wider prospects and relevance of EU initiatives that integrate conditionality rules and environment standards for global governance and international relations.

2. Global Gateway: A Framework

This article examines the factors behind the creation of Global Gateway. It argues that three interconnected external and internal factors—the rise of China as a geopolitical power, the shift to private investment, and the transformational leadership of the Commission—created a window of opportunity to enact a new infrastructure and investment strategy, which in turn catapulted the EU into a new role as global infrastructure lender. The rise of China as a geopolitical power was a necessary and sufficient factor to align EU member states behind a joint strategy to position the EU as a global infrastructure lender. Equally important was the transformational entrepreneurial leadership of the Commission,

which used this window of opportunity to design an ambitious geopolitical strategy that institutionalized collaboration with the business sector and state-owned enterprises and banks.

3. External Factors: China as a Global Development Lender and the Shift to Private Investment

External changes originate from outside the EU polity, as alterations in the underlying international order, such as the rise of new powers with their own sources of geopolitical influence or the rise of private capital as a new mode of investment in development financing.

The first external and necessary factor that led to the enactment of Global Gateway was the rise of China as a global infrastructure financier. This led to the EU's willingness and need to play a stronger geopolitical leadership role to counter Chinese influence in the African continent and beyond, whilst creating the EU's own sphere of influence. In general, the concept of *geo-economics* refers to "the use of economic instruments to promote and defend national interests and to produce geopolitical results" (Blackwill & Harris, 2016, p. 20). Farrell and Newman (2019, p. 45) speak of "weaponized interdependence" when states leverage global network structures for their strategic advantage. In the European context, Meunier and Nicolaidis (2019, p. 107) define the *geopolitization of trade* as a strategy that "characterizes the external face of economic status, whereby trade policies become embedded in power rivalries." The *geopolitization of the EU's foreign economic policy* means that the EU translates its economic and soft power into strategic leverage by using integrated or intersectoral coherence in its different policies, from trade to development, enlargement, and financial support. *Geopolitics of the EU's external relations* also implies that the spatial positions of states and regions may affect their foreign economic policies and actions (see Kelly, 2016). For example, McNamara (2023) argues that the EU is breaking with its supranational market-making tradition based on competition and openness by pursuing instead an interventionist industrial policy and a geopolitical market strategy. When the idea of the Global Gateway was first discussed at the EU level, EU actors widely agreed on the need to reduce Chinese influence in infrastructure and investment projects in the African continent (European Commission, 2021a).

Second, there was a shift toward private capital to finance development projects, instead of focusing on government funding or donor aid. This is part of a new development mantra that aims to create investible projects that can attract global investors via PPPs (Gabor, 2021). At the global level, the World Bank was one of the first multilateral development banks to turn to private capital (e.g., sovereign wealth funds, private equity, and insurance companies) under the presidency of Jim Yong Kim in 2017 with the aim of financing development projects funded by the International Development Association

(Heldt & Dörfler, 2022; Kim, 2017; World Bank Group, 2018). This turn to private investment has been strengthened over the past years with the introduction of a new modality of state governance in development assistance focused on *de-risking* (Gabor, 2021). PPPs between Global South governments and the private sector, but also between donor governments and the private sector, have been extensively applied to implement the 2030 UN Agenda for Sustainable Development (World Bank Group, 2017). This practice of "escorting" private capital to development is widespread. For example, the German Bank for Reconstruction—Kreditanstalt für Wiederaufbau (hereafter, KfW) now uses concessional resources as a risk buffer to subsidize high-risk tranches of development-oriented financial instruments, such as guarantees for the issuance of green bonds (Gabor, 2021; Volberding, 2018). Global Gateway also represents a paradigm shift for the EU development policy. Thus far, the EU has focused on development aid in its partnerships with the Global South. In contrast, infrastructure investments are now part of a new mindset that links the public with the private sector (Council of the European Union, 2021) to actively compete with China in development financing. How are these two factors related? When embracing Global Gateway, the EU started to strategically pursue development financing policies that better serve the interests of EU member states and its private sector. The shift toward the private sector enables a new approach that strengthens European companies investing in projects financed by Global Gateway.

These external changes are closely intertwined with internal factors and important to understand why Global Gateway came into being, to which this article now turns.

4. Internal Factor: The Transformational Leadership of the Commission

Internal changes emerge from within the EU polity itself as political reactions to new circumstances. Major EU institutions—the Council Presidency, the EU High Representative, and the Commission—concurred on the need to position the EU as a geopolitical actor in the financing of infrastructure projects (European Commission, 2021a; Macron, 2021). This preference convergence between powerful EU member states and EU institutions enabled the transformational leadership of the Commission as an entrepreneurial agent in setting up a geopolitical strategy that created the EU's own sphere of influence, especially in Africa, where the EU has long-standing diplomatic and historical interests.

Without agreement among the 27 EU member states on the necessity to position the EU as a geopolitical actor in the field of development financing, there is less supranational institutions can do. Over the last three decades, much has been written about intergovernmental bargaining processes (Moravcsik, 1993, 1998, 2018), supranationalism (Pollack, 1997, 2003; Heldt et al., 2023), the role of spillover processes (Haas, 1968; Schmitter, 1970),

and ideas (Parsons, 2002) as enablers of deepening the European integration process. Studies on the EU actor-ness try to move these metatheoretical discussions to a more down-to-earth discussion by examining what it takes for the EU to act as an effective actor in the global arena (da Conceição-Heldt, 2014; da Conceição-Heldt & Meunier, 2014; Delreux, 2014; Macaj & Nicolaïdis, 2014; Meunier & Vachudova, 2018).

In the meantime, it is almost commonsensical that the unity and convergence of interests and preferences of member states are a necessary condition for the EU's effectiveness. If EU member states have a united position and are able to speak with a single voice (see da Conceição-Heldt & Meunier, 2014), then they are more likely to allow the Commission to act on their behalf in foreign economic policy. Yet, EU studies to date explore to a lesser extent the role of the Commission as a transformational leader and entrepreneurial agent. This is exactly what the current study does. In so doing, this article contributes to delegation literature. Whilst delegation scholars predominantly focus on the principal side of the delegation process (Delreux & Adriaensen, 2017; Hawkins et al., 2006; Pollack, 1997, 2003), the study of the agency side of this relationship (Cortell & Peterson, 2022; Heldt et al., 2022b) has only been done to a limited extent. This study advances this literature by examining how the entrepreneurial role of the Commission impacts the enactment of new EU geostrategic policy instruments.

The Commission played a transformational leadership role as an entrepreneurial agent in the delineation of the Global Gateway strategy. This article argues that political leadership by entrepreneurial agents is more likely to occur when it is broadly supported by the collective principals represented in the Council of the EU. European integration theories—neo-functionalists and principal-agent scholars—view the Commission as a proactive actor advancing the European integration process. Neo-functionalists use the concept of “functional spillover” to refer to situations in which competencies in one policy area lead to expansion into other areas (Bergmann & Niemann, 2018; Haas, 1968). Delegation scholars also assign a competence-maximizing role to supranational institutions (Heldt et al., 2023; Pollack, 1997, 2003). By contrast, other scholars examine the Commission from an international bureaucratic perspective (Hartlapp et al., 2014; Hooghe, 2001; Kassim et al., 2013). More recently, new intergovernmentalists have argued that the Commission has become a more reluctant competence maximiser that is well aware of member states' unwillingness to transfer more competencies to the supranational level (Bickerton et al., 2014). This line of argument, however, disregards that supranational institutions will never waste a good crisis to obtain more competencies, and thus turn the EU into a closer union. Thus, this study argues that supranational institutions play a more nuanced role than European integration theories assume. Entrepreneurial agents act as both pro-

pellers and political leaders (see Heldt et al., 2022a). They help their organizations develop new innovative instruments to strengthen and expand their powers under the presumption that member states support the expansion of an institution's portfolio.

Transformational political leadership by supranational institutions is crucial for advancing the European integration process. Political leadership is a social process in which leaders attempt to influence and mobilize other actors to achieve a common goal (Nye, 2006; Schoeller, 2017). Transformational leadership, defined as a leader's (the Commission) ability to encourage followers (member states; see also Bass & Riggio, 2008) by appealing to the idea of common interest and identity (e.g., a European geopolitical community), is a crucial dimension of the European integration process. Transformational political leadership by an entrepreneurial agent means that the leader is able to unite followers along an objective or a common identity—Global Gateway—as a new instrument of foreign policy and international development to place the EU in the geopolitical ecosystem.

When a supranational institution can generate awareness of a shared identity, preparing and sharing proposals to overcome a challenging situation—or, in this case, to place the EU in the geopolitical landscape—it demonstrates leadership. In other words, if a supranational institution can provide a solution to collective action problems along the neo-functionalist tradition (Haas, 1961; Schmitter, 1970) so that the member states do not question its authority and accept the proposed solution as the best way to solve a new challenging situation, it acts as a transformational political leader. Thus, a supranational institution can take the lead and is more likely to integrate the national governments' different positions into a common proposal. Expert capacity, the inclusiveness of different positions (and geopolitical sensitivities), and awareness of a shared identity are crucial elements of entrepreneurial agents' transformational political leadership.

5. Setting Up the Global Gateway Strategy: China's Rise as a Global Infrastructure Financier

The disruptive effect of the Covid-19 pandemic in 2020 exposed the weaknesses and dependencies of global infrastructure, the disruption of global supply chains, and the scarcity of medical goods. This event raised the awareness of the Commission and EU member states of the importance of reducing economic dependence on China. Before and during the pandemic years, China had carefully orchestrated a soft power offensive projecting itself as Africa's new benefactor, offering support for the economic development of the continent apparently without any tangible loan conditions. China has vastly financed networks of trade, transport, and energy routes under the Belt and Road Initiative (BRI)—a core tool of Chinese foreign policy (Benabdallah, 2019). At the same

time, Huawei Technologies and other Chinese technology companies invested in parallel in the digital infrastructure of emerging and developing countries around the globe (Reilly, 2021). Even if these activities have been most intensive along the routes of the BRI, when the pandemic spread along the initiative routes, these planned corridors of transportation infrastructure financed by China (linking the East and West) were also used by the Chinese government to provide medical support to the Balkan states, Italy, and Spain. The Chinese government used this unique opportunity to project itself as a “humanitarian global power,” and to expand the scope of BRI—which now includes a Green Silk Road, a Digital Silk Road, and a Health Silk Road (Heldt, 2020).

The rise of China has led to a rethinking of EU–Africa relations (Carbone, 2023; Haastrup, 2022; Langan, 2020), especially because the EU and the US perceive the African continent to be at risk of being ensnared by China’s sphere of influence (G7, 2022; Raube & Rubio, 2022). In 2010, the EU and China had a share of around 40% of construction and investments in Africa. However, in 2018 China’s had risen to 60% and the EU had fallen to around 20% (Giesen et al., 2023). Global Gateway is thus part of a broader strategy to tighten the relations between the EU and Africa. Other important infrastructure investment programs include the G7 Build Back Better World, G20 Compact with Africa by the G20, and the Clean Green Initiative by the UK (G7, 2022).

One way for the EU to build its own sphere of influence was to develop a geostrategic and global approach to connectivity to advance the EU’s economic, foreign, development, and security policy interests, while simultaneously promoting European democratic values—the Global Gateway initiative—to counter China’s BRI and its influence on the African continent. EU member states widely agreed on the importance of having a joint geoeconomic strategy to rebuild and enhance the EU’s sphere of influence. For example, French President Emmanuel Macron underlined that the EU needed to “move from being a Europe of cooperation inside of our borders to a powerful Europe in the world, fully sovereign, free to make its choices and master of its destiny” (Macron, 2021). President Macron wanted to have a “more sovereign Europe,” for which a prerequisite was stability in Europe’s neighborhood, including Africa (Macron, 2021). At the EU–African Union Summit on 17–18 February 2022, EU member states and African Union states agreed to create a “European New Deal,” to financially support the economic growth of the African continent and thus implement the geopolitical project (European Council, 2022).

This position aligned with statements made by the President of the European Commission Ursula von der Leyen, on December 1, 2021, who declared that Global Gateway was a template for the EU to “build more resilient connections with the world” (European Commission, 2021a). This position was supported by the EU High Representative, Josef Borrell, who high-

lighted that Global Gateway enabled the EU to affirm its “vision of boosting a network of connections, which must be based on internationally accepted standards, rules and regulations in order to provide a level-playing field” (European Commission, 2021a). Germany’s Foreign Minister Heiko Maas explicitly referred to the rise of China as an influential factor in world politics, thus justifying the need for a European counteroffensive (Agence Europe, 2021b). The rise of China as a global infrastructure lender with its BRI led the EU to initiate Global Gateway as an alternative to counter Chinese geopolitical influence in the African continent. Global Gateway constitutes a first step to transform the EU into a geopolitical heavyweight and competitor to China’s BRI.

It was against this backdrop that European foreign ministers entrusted the Commission on July 12, 2021, with the development of a new geopolitical instrument to finance EU strategic economic investments abroad with the aim of advancing the EU’s “economic, foreign and development policy and security interests and to promote European values” (Agence Europe, 2021a; see also Council of the European Union, 2021). Thus, Global Gateway represents a paradigm shift in a twofold way. Firstly, the EU had hitherto focused on aid in its partnerships with developing countries. Secondly, the decision of EU member states and the Commission to involve the private sector through PPPs emulates the World Bank’s approach to development projects bringing profits generated from infrastructure investments into the EU’s development policy.

By giving the Commission a relatively vague mandate with a high level of discretion, EU member states enabled the transformational leadership of the Commission. The entrepreneurial agent designed a geopolitical plan characterized by a broad range of issues (including digital, climate and energy, transport, health, and education) with centralized tasks at the EU level and flexible arrangements (see also Koremenos et al., 2001). The choice for this delegation design gives the Commission extensive coordination powers to implement the Global Gateway strategy with PPPs—a model that does not involve additional costs for EU member states. PPPs, in turn, enable the Commission to combine existing funding from the EU’s development aid to co-finance infrastructure investment with the private sector. Global Gateway constitutes a first attempt to set up a European Export Credit Facility to support European firms to facilitate their competition with Chinese state-owned companies. Ursula von der Leyen framed Global Gateway as a viable alternative for developing countries to China’s BRI:

Countries made their experience with Chinese investment. And they need better and different offers....They know we are transparent; they know it is accompanied by good governance, they know there will be no unsustainable debt left over, they know this is with the country itself inclusively that we design the project...and we bring on top of that

the private sector with us, a private sector that in such a way does not exist in China. So, it is a true alternative. (European Commission, 2021c)

The new flagship infrastructure project aims to strengthen three key dimensions of development: resilience by supporting vaccine production abroad, robust digital infrastructure, and food security; sustainability by supporting future-proof investment in renewables; and cooperation with like-minded partners, including investments in strategic transport corridors (Szczepański, 2023, p. 6). Global Gateway links engagement in global infrastructure investments to key principles, including democracy, good governance and transparency, equal partnerships, green transition, security, and private-sector investment (European Commission, 2021b, p. 3).

One of the core elements of Global Gateway is coherence across policy areas. Some financial instruments are centralized at the EU level, while others are complemented by national funding. The financial design brings together grants from the Neighborhood, Development, and International Cooperation Instrument with a total amount of €18 billion and €21 billion in guarantees through the European Fund for Sustainable Development. European financial institutions—including the European Bank for Reconstruction and Development and the European Investment Bank—and EU member states will finance €145 billion worth of investments. To support investment and development in green and clean infrastructure implementation, the Commission will also build on existing European programs (European Commission, 2021b, pp. 8–10) with the aim of overcoming the existing fragmentation and overlaps in the European financial architecture for development (Szczepański, 2023, p. 4). In so doing, Global Gateway institutionalizes the collaboration with the private sector and state-owned enterprises and banks.

Following the enactment of Global Gateway, the European International Contractors, a federation of the European construction industry, stated that national Export Credit Agencies would be involved in the whole process to leverage additional financing (European International Contractors, 2021). State-owned banks are also important partners. For example, three units of the German bank KfW are involved: KfW Development Bank, which finances long-term investment in developing countries; DEG, in charge of the promotion of developing countries and emerging economies; and KfW IPEX-Bank, which is in charge of international export and project finance (Krämer, 2022). KfW can use concessional resources as a risk buffer and thus subsidize high-risk development financial instruments. This is part of a new approach to finance development as a “de-risking” strategy, where investment risks are guaranteed by states. It creates a safety net for investors in development assets while safeguarding their profits from risks attached to “infrastructure assets” (Gabor, 2021, p. 43).

The Commission acted as a transformational leader and entrepreneurial agent by choosing an institutional design for Global Gateway, in which it puts itself in the driver’s seat at the implementation stage. In so doing, it relied on its expertise capacity in implementing international development projects and raised awareness of a shared identity of the EU as a geopolitical community. The governance structure of the Global Gateway, through Team Europe initiatives, indicates that close coordination between the Commission, European Union External Action, aid agencies of the member states, and European financial institutions, decentralizes power within the EU. EU member states agreed on a joint implementation through a Team-Europe approach, which mobilizes resources of the European Investment Bank and the European Bank for Reconstruction and Development, the Commission, and national development finance institutions. The alternative approach suggested by the Wieser Group to create a single entity for external development finance, uniting both European banks, was rejected by EU member states (Council of the European Union, 2019; Hodson & Howarth, 2023).

Under the Commission and the EU High Representative’s guidance, EU institutions and member states will work together with European businesses, civil society, and the private sector in partner countries to implement Global Gateway. Two institutions will play a central role: a Global Gateway Board and the Business Advisory Group on the Global Gateway. The main function of the Global Gateway Board would be to provide strategic guidance in relation to the development of Team Europe projects. By contrast, the Business Advisory Group on the Global Gateway would ensure the involvement of the private sector in the implementation of the Global Gateway initiative (European Commission, 2021b, p. 12). The Advisory Group will have up to 60 members and 10 observers from the private sector and EU institutions, including EU trade and business associations and business networks. The main mission of this Advisory Group is to create a forum to discuss strategic priorities, activities, and opportunities for the private sector in the areas covered by the Global Gateway (European Commission, 2023a).

After Russia’s invasion of Ukraine in February 2022, the EU flexibly employed Global Gateway as an instrument of EU power projection by signaling Balkan states that they belonged to the EU’s sphere of influence to counter China and Russia’s influence in these countries. Global Gateway was thus supplemented with new programs for the Balkan states and a new Eastern Partnership. In May 2022, the President of the European Council Charles Michel presented his vision for a “European geopolitical community,” which promotes peace, stability, and security in the EU by involving Western Balkan countries in annual meetings with EU member states. Cooperation between the EU and these countries will be strengthened in the future in socioeconomic, educational, and research issues. More

importantly, the EU will accelerate the enlargement process for Western Balkan countries (Michel, 2022).

The European Commission and EU High Representative are both in charge of swiftly implementing Global Gateway and are required to inform the Council and the European Parliament. The latter oversees monitoring and evaluates the progress made in the implementation of Global Gateway (European Commission, 2021b, p. 12). Two significant initiatives were launched in February 2022: the first regional Global Gateway Africa–Europe Investment Package and a regional investment package for the Western Balkans. In November 2022, the EU concluded a strategic partnership with Namibia and Kazakhstan for raw materials and renewable hydrogen sources. The EU also launched its Global Health Strategy with the aim of expanding international health partnerships based on co-ownership and co-responsibility principles for the participating countries. Finally, at the December 2022 EU–US Trade and Technology Council, the EU initiated connectivity partnerships with Jamaica and Kenya (Szczepański, 2023, pp. 7–9).

Since the launch of the Global Gateway Strategy in December 2021, grants worth more than €9 billion from the EU budget have been used for investments in digital, energy, health, and education sectors as well as in strategic transport corridors (European Commission, 2022).

Global Gateway presents a credible and competitive alternative to the BRI and thus strengthens the EU's position in a more competitive international environment in foreign policy and international development financing (Lau & Moens, 2022). The Commission played a decisive role in the design of Global Gateway by choosing instruments in the form of PPPs centralized at the EU level, to tap into new financial resources to finance infrastructure development projects, introduced coherence across policy areas and collaboration with private actors through the creation of the Business Advisory Group, and prioritized world regions, and their strategic value for the EU.

The EU High Representative and the Commission jointly released the European Economic Security Strategy in June 2023, which identifies Global Gateway as one of the three pillars of the EU's economic security. This new strategy aims at protecting the EU's economic security, promoting the EU's competitiveness, and partnering with countries on similar de-risking paths which have common interests with the EU. Negotiating trade agreements, investing in sustainable development in the Global South, and securing links across the globe through Global Gateway are ways of achieving the partnering objective (European Commission, 2023c, p. 3). For example, the creation of the EU–India Trade and Technology Council in April 2022 is part of this partnering and de-risking strategy. On June 17, 2022, the EU and India also relaunched negotiations on a trade agreement and began discussions on investment protection (European Commission, 2023b). The main motivation behind this economic cooperation was to counter China's influence on the global infrastructure landscape (von der Leyen,

2022). It remains to be seen to what extent in the future, the two other pillars of the European Economic Security Strategy—namely promotion of the EU's competitiveness by strengthening the European single market and the protection of the EU's economic security by using existing policies and instruments—will be integrated into infrastructure investment or energy security projects as a means to promote the EU's competitiveness and to protect it from risks. The latter implies that outbound investment will ensure that European companies' capital, together with their knowledge and expertise, are not used by countries of concern for military application (European Commission, 2023d).

Member states have reacted in various ways to this new deepening strategic competition with China. For example, Germany extensively supports Global Gateway and the EU's de-risking strategy toward China. Foreign Minister Annalena Baerbock declared that, with Global Gateway, the EU can offer developing countries better options “transparently, treating them as equals, without oppressive contracts” (Federal Foreign Office, 2023), without explicitly referring to China. In July 2023, the German government also issued a strategy on China as part of the joint EU policy on China. Africa is seen as a “key target region” for the EU's infrastructure investment to counter Chinese influence (Government of the Federal Republic of Germany, 2023, p. 49). France, a former major colonial power, also supports the EU's investments in infrastructure development in Africa. The current priority of the French Ministry for Europe and Foreign Affairs—alongside the Ministry for State and Development, Francophonie and International Partnerships—is to encourage the French private sector to mobilize and seize this unique opportunity of investing in African countries. On March 23, 2023, the Ministry for European and Foreign Affairs organized a seminar to rally the French private sector around Global Gateway investments with the intention of mobilizing up to 300 French companies (Ministère de l'Europe et des Affaires Étrangères, 2023).

EU member states currently disagree on the regional focus of Global Gateway. Whilst Italy and France support investment in Africa, Spain and Portugal underline the importance of investing in Latin America. On the other side of the spectrum, Central and Eastern European countries prefer to have infrastructure investments focused on the Western Balkan region (Giesen et al., 2023). This has led the Commission to diversify the EU's infrastructure and investment strategy with 36 projects in Sub-Saharan Africa in 25 countries focusing on renewable energies and infrastructure, 14 projects in Latin America and the Caribbean in 15 countries supporting internet, forest protection, and mobility, seven projects in EU neighborhood region with projects in Balkan countries financing digital infrastructure, and 13 projects in Asia and Oceania in 13 countries with a focus on renewable energies (Directorate-General for International Partnerships, 2023).

6. Reactions of African Target Countries to Global Gateway

Global Gateway's creation catapulted the EU into geopolitics prioritizing the African continent to boost public and private investment. This raises the question of what African target countries' responses and reactions to the EU's global infrastructure project have been thus far. In general, the reactions have been predominantly negative. The African Union and officials from African countries deplore the absence of additional funding for Global Gateway (Teevan & Domingo, 2022). In contrast, many African countries view China's BRI financing model, based on loans, as the more attractive option because they know what the relevant facts and figures amount to (Farand, 2021).

In general, representatives from African countries criticize the EU's paternalistic attitude. First, recipient countries dislike the EU's value-focused approach. What the EU defines as good governance, African countries perceive as onerous bureaucracy, and they lack the institutional capacity to handle the complex bureaucratic process of completing all the forms and requirements to start the investment process. With China, projects can get started quickly, which is important in Africa because many of these infrastructure projects are linked to electoral cycles. Second, for many African countries, the EU's environmental standards will be "a double-edged sword." For example, in Nigeria, environmental aspects are important in respect of energy transition, but they are secondary compared to the stark infrastructure deficit faced by that country. Instead of letting the EU "dictate" whether Nigeria is going to expand its hydrocarbon investments, Nigeria will seek other partners, including China or Turkey (Farand, 2021). Third, a survey carried out by Afrobarometer in 2019–2021 across 34 African countries on their views of development cooperation revealed that 55% of Africans believe foreign lenders and donors should give African governments more leverage on how to use development funding and that 51% want their governments to be free to make their own decisions about democracy and human rights (Afrobarometer, 2021). Finally, African countries consider the EU's competitive framing with China as "problematic" because it suggests that the EU is more interested in geopolitical power issues than in providing infrastructure. This geopolitical preoccupation comes at the cost of undermining African agency in the whole Global Gateway process (Farand, 2021).

To be sure, there has also been an anti-Chinese backlash in many African countries with widespread complaints about Beijing's colonial behavior (Leonard, 2023) and the risks linked with a "debt trap diplomacy," in which China leverages over African countries and even seizes their infrastructure and resources (Bennon & Fukuyama, 2023). When implementing Global Gateway, it is important that the EU avoids the trap of acting like a colonial power by dictating the rules and

recreating dependencies. Giving African countries some agency is essential for the whole implementation process to succeed.

7. Conclusion

Global Gateway marks a geopolitical turn in EU politics through which the EU can project its power in the world. This article argues that the confluence of three factors explains the creation of Global Gateway: the rise of China as a geopolitical power, the shift to private investment in multilateral development financing, and the role of the Commission as a transformational leader and entrepreneurial agent in designing the EU's geopolitical strategy. First, the economic and political rise of China as a global infrastructure lender provided the EU with the impetus to create its own sphere and influence by establishing the Global Gateway. The use of economic tools to advance geopolitical objectives enables the EU to start a deeper strategic competition with China on infrastructure financing to regain its lost influence on the African continent. Equally important for the smooth establishment of this new instrument of geopolitics was the transformational leadership of the Commission and the support of powerful member states, in particular France and Germany. EU member states gave the Commission a relatively vague mandate with a high level of discretion, enabling the entrepreneurial agency of the Commission to design this geopolitical instrument of EU power projection. This, in turn, led to a paradigm shift introducing PPPs and thus private capital into EU development financing. Global Gateway includes a broad range of issues, centralizes tasks at the EU level, and gives the Commission extensive coordination powers to implement this new geopolitical strategy in collaboration with the private sector, national ministries, and state-owned enterprises and banks. Aware of member states' reluctance to spend any additional funds on development programs, the Commission proposed a model that enables the EU to channel private investment to the development sector, co-financed by the public sector. This new "de-risking" approach to finance infrastructure projects creates a safety net for investors in the development sector, safeguarding their profits from risks.

This geopolitical turn in EU politics is a new phenomenon that raises several questions. First, how will the division of labor between the Commission and the EU High Representative work in practice, and what kind of formal and informal collaboration and coordination mechanisms will be established to effectively implement this geopolitical strategy? Second, how will the Global Gateway and the G7 Build Back Better World coordinate their programs by dividing geographical areas and avoid overlapping priority areas among themselves? Finally, African target countries dislike the EU's value-focused approach, are irritated by the EU's paternalistic attitude, and miss African agency in the whole process. The competition for influence in the African continent has just

started. The good news for African countries is that they can choose from different multilateral, European, and bilateral investments in infrastructure, and are not reliant on one single donor country. Strategic competition with China has just begun, and it remains to be seen whether the EU will in fact be able to position itself as a geopolitical power to become a game changer in global infrastructure finance, or if it will remain a mere shadow in the prevailing US–China economic and political rivalry.

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Conflict of Interests

The author declares no conflict of interests.

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About the Author



Eugénia C. Heldt holds the chair of European and Global Governance at the Technical University of Munich, Germany. Her research focuses on the delegation of power to multilateral economic institutions, EU trade policy, and accountability in global governance. Her work has been published in journals such as *Review of International Political Economy*, *Regulation & Governance*, *JCMS: Journal of Common Market Studies*, and *Global Studies Quarterly*. She has received several prestigious grants for her research, including a grant from the European Research Council.

Article

Legal Traditions as Economic Borders

Shintaro Hamanaka

Institute of Developing Economies (IDE-JETRO), Japan; shintaro_hamanaka@ide.go.jp

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Abstract

This article makes two main claims: A state's legal tradition is embedded into its domestic institution in each issue area and a state that has a common/civil law-type domestic institution in a certain issue area (not necessarily a state that has common/civil law tradition) prefers common/civil law-type international agreements in the same issue area. The consequence of these two claims is that states' legal tradition is often one of the primary sources of international cooperation, especially issue-specific cooperation. This in turn means that the difference in legal traditions is often a potential factor that would induce economic disintegration. By conducting theoretical and empirical investigations of three issue areas covered by free trade agreements (i.e., trade in goods, trade in services, and investment), this article demonstrates that different modes of governance are preferred by civil and common law states domestically and internationally, and that the difference in domestic systems partially explains participation and non-participation in international agreements.

Keywords

civil law; common law; international cooperation; investment; legal traditions; trade

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1. Introduction

This article argues that legal tradition is often a powerful factor in the drawing of economic borders, especially in terms of concluding economic arrangements. Further, the difference in legal traditions is often a potential factor in inducing economic disintegration. This study highlights differences in social and economic governance observed between states with common law traditions and those with civil law traditions. Common law states prefer a bottom-up flexible approach to governance. Conversely, civil law states, where all laws are written, prefer a top-down systematic approach to governance. Cooperation among states with similar legal traditions is relatively easy, but when states with different legal traditions try to cooperate, they often encounter disagreements associated with the institutional design of economic agreements.

This study analyzes international cooperation in various issue areas covered by FTAs, namely, (a) flow of trade in goods, (b) flow of trade in services, and (c) flow

of investment. Those are studied because they are critical components of FTAs, which are often called EPAs. Although there are several interesting areas where common law states and civil law states might have different approaches to managing the issue (e.g., intellectual property), the three areas studied here are expected to give us a good starting point for discussing the relationship between legal traditions and domestic institutions, on the one hand, and international cooperation, on the other.

However, because each issue area is huge, we must limit our analytical focus. Among various important points, this article introduces one aspect for each issue area where states' preferred form of international cooperation exhibits interesting variations that could be explained by factors associated with legal traditions. For trade in goods, variations in the approach to preferential tariff treatment under FTAs are examined. What is interesting is that upon embarking on multilateral FTAs (among more than two parties), some states, but not others, offer different tariffs for different members despite

all of them belonging to the same FTA. From among the wide range of trade in services, this article deals with international trade in professional services. There are interesting differences across states with regard to the preferred methods for evaluating who is “qualified” as a professional. Some states take the position that international harmonization of paper-based examinations for qualifications is useful, while others are against it. For investment, dispute settlement will be analyzed. The ideas regarding who can initiate investment dispute cases against the government and how this is done differ between states. While Investor-State Dispute Settlement (ISDS) is widely known as a mechanism to solve investment disputes, it is just one of many options.

This article is structured as follows: After reviewing the literature, this study deductively develops a theoretical argument on the forms of domestic and international governance preferred by each of the common law states and civil law states. We then move to empirical discussion. We will have three empirical sections: trade in goods, services, and investment. The purpose of these empirical sections is to examine whether there is any correlation between legal traditions and domestic institutions, on the one hand, and international cooperation, on the other. The final section concludes with some discussion of policy implications.

2. Gaps in the Literature

The relationship between domestic legal tradition and international agreements has attracted considerable scholarly attention (Simmons, 2009). The recent trend is to quantitatively examine the impact of domestic legal tradition on being a party to international treaties and/or (bilateral) international agreements. Efrat and Newman (2018) conducted an interesting quantitative study on the signing of legal assistance treaties. They found that states with similar types of legal traditions tend to sign legal assistance treaties with each other, while the tendency to sign such treaties does not differ much between the two types of states. Link and Hafel (2021) argue that common law states are, in general, less likely to participate in international investment agreements.

The studies on this subject to date, particularly quantitative studies, have two major problems. First, there is little analysis of international agreements in terms of legal tradition. While previous studies have devoted considerable effort to statistically identifying whether common law traditions have a positive or negative impact on participation in international agreements, theoretically informed qualitative analysis of international agreements is underdeveloped (Elkins et al., 2006, p. 840). There are two notable exceptions in this regard. Powell and Mitchell (2007) find that civil law states are more likely to accept compulsory jurisdiction of the ICJ. According to that study, civil law states are more positive toward the ICJ, which is similar to a civil law court system. Efrat (2016) finds that the United Nations’ Model

Commercial Legislation, which is a non-binding international agreement, is more likely to be joined by common law states. This is because non-binding international agreements, which may be adapted to local needs and circumstances, are more consistent with common law. Second, there has been little analysis of domestic systems. It is often assumed that a state’s domestic system is different when legal traditions are different. In other words, quantitative studies generally use a binary variable of common/civil law state (or a common/civil law binary) from a certain database or previous studies (Efrat, 2006, p. 629; Elkins et al., 2006, p. 834), assuming that legal traditions are embedded into domestic institutions in a fairly consistent manner.

Some recent theoretical qualitative studies have sought to look into the different forms of international agreements and domestic systems preferred by civil and common law states. On international agreements, Duina (2016) reports a comparative case analysis of FTAs and argues that civil law states prefer international harmonization of laws and permanent courts to solve international disputes, whereas common law states prefer recognition of foreign laws and technical ad hoc mechanisms for international dispute resolution. For domestic systems, based on their case analysis of professional qualifications, Hamanaka and Jusoh (2018) argue that both common and civil law states have developed distinct types of domestic qualification systems that are in line with the fundamental values of each legal tradition. They posit that civil law states, which rely heavily on written laws, tend to rely on paper-based examinations for the governance of professional qualifications.

3. Theoretical Argument

The main thesis of this study is that common law states and civil law states often have different types of domestic institutions and they consequently tend to embark on different types of international cooperation. There are two important points here. First, a state’s legal tradition is embedded into its domestic institution in each issue area, yet this does not mean that non-legal factors are powerless in shaping domestic institutions. Second, a state that has a common or civil law-type domestic institution (not necessarily a state that has common or civil law tradition) prefers a corresponding common or civil law-type international agreement or institution. The international preferences of states are determined by their domestic systems because states regard international mechanisms as an extension of their domestic mechanism. We should not overlook the possibility that a common law state has civil law-type domestic institutions due to non-legal factors and, in that case, such a common law state is likely to prefer civil law-type international systems in the area concerned. This section discusses the common/civil law types of domestic institutions and the international cooperation in each issue area in a theoretically informed manner.

3.1. Goods: Preferential Tariff Concession

The levels of distinction in terms of the origins/roots of various things, ranging from people to products, differ between common law societies and civil law societies. Because common law societies tend to think that there are common laws/norms applicable irrespective of origins/roots, the designation of origin/roots is not a critical issue. As a result, in common law societies, for example, the distinction between domestic and foreign parties is blurred. The fact that the extraterritorial application of “common” law to foreign entities is prevalent in common law societies supports this argument (Meyer, 2014). By contrast, since the time of *jus civile*—Roman civil law—the scope of the parties covered by civil law is relatively clear (Kassan, 1935, p. 246). In civil law societies, the distinction in terms of origins/roots is also relatively clear, because they are designated in a top-down manner. In fact, extraterritorial application of laws is less prevalent in civil law courts (Zerk, 2010, p. 148).

This difference in the level of distinction in terms of origin/roots is embedded into trade policy regimes, though this has recently become less evident. Two types of norms regarding trade are associated with distinctions in terms of origin/roots. The first is the distinction between domestic and foreign products, which is called national treatment. The second is the distinction among foreign products, which is called most favoured nation (MFN) status. These two norms are already common for both common and civil law states and the difference in the level of distinction of origin/roots is less apparent, partly because of the membership in the WTO, owing to the impact of international membership on domestic trade regimes. However, it is interesting to note that historical anecdotes are consistent with the theoretical argument above. The idea of free trade, meaning that there is no distinction between domestic and foreign products in terms of tariff, originated in common law societies (Holdsworth, 1934; Letwin, 2011). The UK has also been a supporter of MFN status. The first modern FTA was signed between the UK and France in 1860 (Cobden-Chevalier Commercial Treaty; Lampe, 2009). Interestingly, the UK unilaterally offered the same tariff reduction to all states (unilateral MFN), whereas France did not do so (Lampe, 2009). The trade practices of the united Germany in the late 19th century were highly discriminatory and protectionist (Spigelman, 2018).

In international or regional cooperation on trade liberalization, approaches to tariff reduction differ between states with a common law-type trade regime and those with a civil law-type trade regime. When states with a common law-type trade regime sign a multi-party FTA, they give the same tariff treatment to all other members of the FTA, which is referred to as “common concession.” Because FTA generally pursues tariff elimination, they usually give zero tariffs to all other members. In contrast, states with a civil law-type trade regime give different levels of tariff concession to different members of even the

same FTA. This is referred to as a “country-specific concession.” They often give zero tariffs to some members but a positive tariff to other members.

3.2. Services: Professional Services and Qualifications

Civil law states prefer a systematic legal system where written laws play the central role. Judges apply specific written laws to each case at hand and precedent court cases are usually not laws per se (Pejovic, 2001). By contrast, in common law states, there are many sources of laws other than statutes and case laws play a critical role. Judges examine the case at hand and judge by applying case law, comparing both commonalities and differences between cases. Case laws should be interpreted in each specific context (Pelc, 2014).

This difference is embedded into regulatory regimes for domestic services. There is no doubt that only “qualified” people are allowed to supply professional services in both common law states and civil law states. However, how the competency of candidates is assessed differs between the two types of states. In assessing the competence of professionals, civil law societies ask candidates to sit and take a paper-based examination where the score can be calculated in a fairly automatic way (Nollent, 2002). What applicants write down on paper forms the basis of their competence assessment. In common law countries, on the other hand, competence is assessed by an authority (e.g., professional associations) and continuous assessment is valued. Common law societies do not consider the score of candidates at a one-time uniform written examination to be critical. Typical common law qualification regimes value track-record assessment and competence is assessed given the applicants’ experiences (course work and work experience) on a case-by-case basis (Nollent, 2002). Performance during the coursework and interviews are the primary components of track-record assessment. Based on this continuous assessment, candidates are recognized as professionals by a board or association.

International cooperation preferred by common law-type qualification regimes involves international recognition of foreign professionals. Authorities in common law qualification regimes examine the track record of foreign professionals on a case-by-case basis and recognize competent candidates as professionals, just like in the assessment of domestic applicants (this means assessment and recognition are conducted in a non-discriminatory manner, irrespective of nationality/origin). Because they may not be familiar with the experiences acquired by foreign candidates outside their jurisdiction, the authority in common law societies often refers to the track-record assessment conducted by the home country of the candidate. This type of practice of obtaining a reference sometimes develops into a mutual recognition agreement (MRA). Mutual recognition is not automatic and each authority can unilaterally decide whether to confer qualifications to foreign

candidates. However, MRAs facilitate the process of unilateral recognition of foreign candidates. In contrast, the type of international cooperation preferred by civil law qualification regimes is the harmonization of examinations. Harmonization is possible largely because it is paper-based examinations that are harmonized. In some cases, the same paper-based examination is introduced as a result of international cooperation.

3.3. *Investment: Dispute Settlement*

Civil law states prefer a systematic court system and provide a uniform interpretation of (written) laws. In contrast, in common law states, the court system is more ad hoc. Because of the nature of this legal system, it is more difficult for common law societies to provide a uniform interpretation of laws. Instead, laws are interpreted in common law courts on a case-by-case basis (Duina, 2016).

This difference is embedded into the domestic judicial regime for challenging the government's measures and laws. In civil law states, the constitutionality of laws and policies is examined abstractly, without a specific case (Lopez Guerra, 1994). The constitutional court is a typical court where abstract constitutional review is conducted, but this is also done at a supreme court in some civil law states. A primary example of this is the Austrian Verfassungsgerichtshof, established in 1919, based on the legal theory of Hans Kelsen (Lopez Guerra, 1994). In principle, the party that can challenge the constitutionality of laws or policies is limited to "authorities," such as ministers, political parties, and bar associations. Individuals are usually not allowed to initiate an abstract constitutional review process (Steinberger, 1994). In contrast, in common law states, courts judge the constitutionality of laws in a concrete manner (a constitutional court is often absent in common law states). Review is only done when an actual case arises in which the constitutionality of laws becomes an issue (Lopez Guerra, 1994). Hence, the party that can initiate this concrete constitutional review process is individuals or private entities that believe they were injured by new laws or policies implemented by the government. Even lower courts may decide that a law is unconstitutional (Utter & Lundsgaard, 1994). Of course, the above is a conceptual argument and in the contemporary real world, there is some convergence in the constitutional review process. In fact, civil law courts examine the constitutionality of laws and policies with a specific case in mind, while common law courts review constitutionality abstractly. That said it is also true that differences in the legal culture surrounding constitutional review still exist between common law states and civil law states, even today.

States with common law-type judicial regimes prefer an investor-state dispute mechanism at the international level. In such mechanisms, investors can freely sue foreign governments. The point here is that private parties (private investors) have the right to bring a dispute into the international dispute settlement mechanism if they

believe their rights have been infringed. This is in line with the concrete judicial review process, which is initiated by individual plaintiffs. In contrast, states with civil law-type judicial regimes prefer state-state dispute resolution for investment. They prefer that international investment disputes do not occur in a disorganized manner. The point here is that private parties (private investors) first need to convince their government that their rights have been infringed, and, once convinced, the government must raise the issue with the treaty partner government, which could either take the form of state-state negotiations or state-state dispute settlement processes. In other words, in civil law societies, only states (authorities) can sue other states (authorities).

4. Empirical Argument

This section examines whether states' domestic institutions (common law or civil law-type) and their international preferences are correlated. This is a very preliminary analysis that aims to assess the plausibility of the deduced theories, based on various cases. An important caveat here is that it is wrong to consider that domestic institutions that embed specific values regarding a certain legal tradition are the only factor affecting the international preferences of the states. This is especially true for the issues areas studied in this article, which are highly complex. For example, there is no doubt that factors other than legal tradition affect states' attitudes toward ISDS because it is a highly politicized issue with a distinct historical background. Economic factors (capital exporting or importing and technological needs) also affect states' attitudes toward ISDS (Hamanaka & Chi, 2022). Nevertheless, this does not mean that a preliminary examination focusing on legal traditions embedded in domestic institutions will be fruitless. Rather, it is an interesting exercise to see the degree to which legal tradition alone explains states' international preferences, bearing in mind that non-legal factors may explain "deviant" cases. I acknowledge that the empirical evidence in this study needs further solid empirical examination, either qualitative or quantitative, which should be conducted in future work.

4.1. *Methodology*

Following the presented context, the "endogeneity problem" deserves some discussion. While this study argues that domestic factors affect states' international preferences, reverse causality could be true, namely, that participation in international institutions forges domestic institutions. This means that even if we observe correlations, causality cannot be clearly determined. One way to overcome this problem is the use of a "proxy" as an independent variable. By looking into domestic institutions that embed the same particular value in a different issue area, we are more likely to account for the causality (see Subsection 4.4 for further details).

The question is how to qualitatively assess states' domestic institutions and their international preference. First, on the domestic side, it should be noted that we do not analyze legal traditions per se but domestic institutions that embed some common/civil law values. Hence, we should go beyond the binary application of legal tradition from a database. This section qualitatively analyzes whether test countries' domestic institutions have common law or civil law characteristics. A state that is usually considered to have a common or civil law tradition may have civil/common law-type domestic institutions in certain issue areas. Second, on the international side, as mentioned in the first section, for each issue area studied, this article introduces only one aspect, where interesting differences in states' international preferences are observed. However, the methodology to reveal states' international preferences varies. In the case of preferential tariffs for trade in goods, members can usually decide the method of tariff concession (common or country-specific), so the difference in preference can be directly observed. In the case of professional qualification in services, there are usually opt-in or opt-out options, meaning that states can decide whether to participate in international cooperation on qualification. Hence, participation status reflects states' international preferences. In the case of ISDS, analysis is not straightforward because FTA members cannot opt out of ISDS obligations. Hence, we should compare several international agreements to arrive at a speculative but plausible explanation of states' international preferences in investment management.

This study focuses on international cooperation in the Asia-Pacific region, which was chosen because it has a wide variety of states in terms of legal tradition. There

are both states with common law tradition and civil law tradition. In addition, because there are many agreements in this region, we can identify states' preferences in international cooperation for each issue area in a relatively convincing manner. In the case of tariff concessions, agreements such as the Regional Comprehensive Economic Partnership (RCEP) and TPP are useful because both allow members to choose their preferred concession method. For services, international cooperation on qualification under the auspice of ASEAN+3 and APEC is useful because both ASEAN+3 and APEC members can choose whether or not to participate in particular international qualification cooperation projects. With respect to ISDS, we will analyze the ASEAN Comprehensive Investment Agreement (ACIA), ASEAN+1 FTAs, RCEP, TPP, and several BITs. The membership of regional institutions analyzed in this study is illustrated in Figure 1.

Below, each section first classifies states' domestic institutions in terms of legal traditions (common law-type governance or civil law-type governance). We then analyze states' international preferences in each issue area to examine whether there is any correlation between the two.

4.2. Trade in Services

Among various professional services, we will analyze engineer services, because the difference in regulatory governance between common law and civil law states is significant domestically and internationally. Domestic qualification regimes for professional engineer services of Asia-Pacific states are classified into four types. Civil law-type qualification regimes only require a paper-based examination without any other requirement

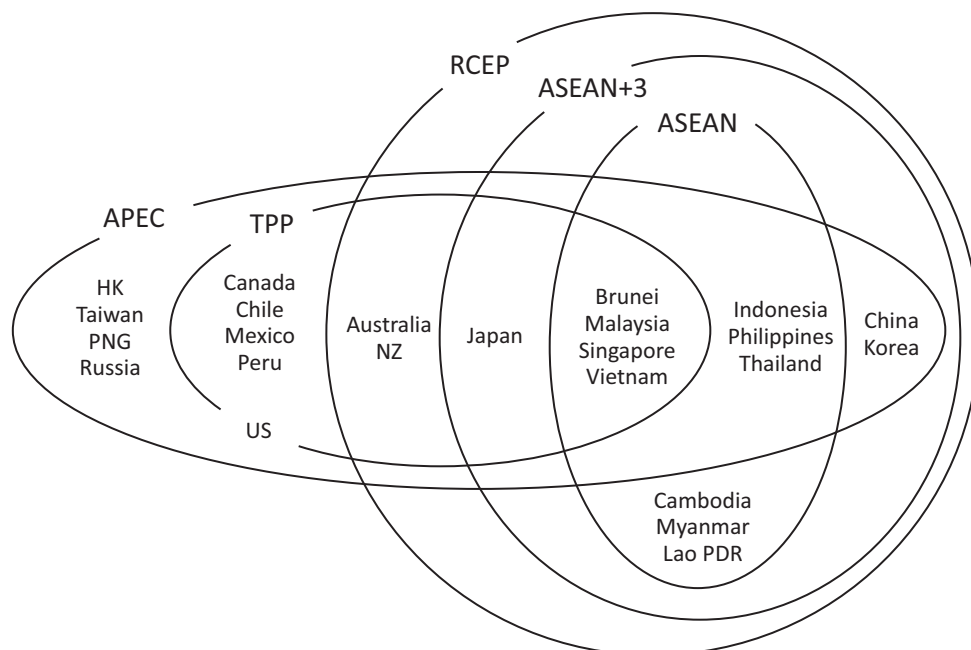


Figure 1. Institutions and agreements in Asia-Pacific.

(Japan). Common law-type qualification regimes do not require a uniform, one-time paper-based examination. The competence assessment relies on track-record assessment (Malaysia). Countries other than the two above have mixed qualification regimes, which require both paper-based examination and track-record assessment. Mixed qualification regimes that entail substantial interviews are regarded as quasi-common law qualification regimes because interviews allow examiners to take into individual backgrounds on a case-by-case basis. Taiwan, Korea, and Singapore fall into this category. The Philippines, Vietnam, Thailand, and Indonesia also have mixed qualification regimes, but there are no interviews or they play a relatively small role.

The Information Technology Professionals Examination Council (ITPEC) is set up under ASEAN+3 to facilitate international cooperation among engineers, particularly information technology engineers. The primary objective of ITPEC is to introduce a common paper-based examination. Interestingly, ITPEC is an “opt-in” program under ASEAN+3. Participation in the ITPEC is not compulsory and each ASEAN+3 member can freely decide whether to participate and what degree to participate (full participation or partial participation). ASEAN members’ attitudes toward ITPEC are as follows: Japan, which initiated the ITPEC is the most active among all members; Vietnam, the Philippines, and Thailand actively send applicants to take the ITPEC harmonized paper-based examination; Taiwan and Korea are inactive in the ITPEC, however, while they do not participate in the ITPEC per se, they agree to cooperate with Japan on this matter; and Malaysia, Singapore and Indonesia are very inactive. Malaysia decided to withdraw from

the ITPEC in 2017, and Singapore’s participation in ITPEC excludes its core component (Hamanaka & Jusoh, 2023). Table 1 shows the relationship between domestic qualification regimes and their attitudes toward the ASEAN+3 ITPEC examination. There is a clear correlation: States that have civil law-type qualification regimes prefer internationally harmonized paper-based examination than states with common law-type qualification regimes.

APEC Engineer is APEC’s project for international cooperation on engineer qualifications. APEC Engineer facilitates the signing of bilateral MRAs between APEC members. APEC MRAs have an opt-out option. While APEC members are encouraged to participate in MRA-related activities, each APEC member can freely decide whether or not to sign bilateral MRAs, also the scope and coverage of each MRA can be customized. APEC members’ attitudes toward APEC Engineers are as follows: Australia, New Zealand, Malaysia, and Korea are very active in signing MRAs under APEC Engineer and they are also original members of the International Professional Engineer Agreement (IPEA), a sister organization of APEC Engineers; Singapore is active in signing MRAs under APEC Engineers, but it is not an original member of IPEA; other states (except Vietnam) are inactive—they decided to participate in APEC Engineers scheme, but seem reluctant to sign bilateral MRAs under it; and, finally, Vietnam is very inactive in APEC Engineer project. While it is a member of APEC, Vietnam decided not to participate in the APEC Engineer scheme (Hamanaka & Jusoh, 2023). Table 2 shows the relationship between domestic engineer qualification regimes and attitudes toward activities related to APEC MRA. Clear correlations can be observed, which is the opposite

Table 1. Qualification regimes and ITPEC harmonized examination.

| | Common law-type qualification regime | Mixed qualification regime (quasi-common law type) | Mixed qualification regime (quasi-civil law type) | Civil law-type qualification regime |
|---------------|--------------------------------------|----------------------------------------------------|---------------------------------------------------|-------------------------------------|
| Very active | — | — | — | Japan |
| Active | — | — | Philippines, Vietnam, Thailand | — |
| Inactive | — | Taiwan, Korea | — | — |
| Vary inactive | Malaysia | Singapore | Indonesia | — |

Table 2. Qualifications regimes and APEC Engineer MRAs.

| | Common law-type qualification regime | Mixed qualification regime (quasi-common law type) | Mixed qualification regime (quasi-civil law type) | Civil law-type qualification regime |
|---------------|--------------------------------------|----------------------------------------------------|---------------------------------------------------|-------------------------------------|
| Very active | Australia, NZ, Malaysia | Korea | — | — |
| Active | — | Singapore | — | — |
| Inactive | — | — | Philippines, Indonesia, Thailand, Taiwan | Japan |
| Vary inactive | — | — | Vietnam | — |

of the case of ITPEC, where states that have common law-type qualification regimes prefer mutual recognition than states with civil law-type qualification regimes.

4.3. Investment

The court system for administrative disputes in Asia-Pacific states can be classified into two types. Several states have a constitutional court. Among ASEAN members, Indonesia and Thailand have a constitutional court. Among non-ASEAN states, Korea has a constitutional court. Other than these three, Asia-Pacific states do not have constitutional courts and the constitutionality of laws is examined based on specific cases, not in an abstract manner. China's constitutional review system is debatable. China is classified as a state with an abstract review system simply because it is difficult for private parties to bring an actual case to court in order to challenge the constitutionality of Chinese government policies. The Standing Committee of the National People's Congress engages in ex-ante constitutional review upon request from certain state organs and also has a role in delivering authoritative interpretations to courts upon request (Ginsburg & Versteeg, 2022). While this is a unique system, it is closer to abstract constitutional review rather than to concrete review. Vietnam's constitutional review is also conducted by the legislature, positioning it closer to the abstract review system (Ginsburg, 2008).

ASEAN has its own investment agreement, called the ACIA (signed in 2009). The ACIA includes ISDS, implying that all ASEAN members find ISDS useful. However, there are nuanced differences among ASEAN members with regard to the usefulness of ISDS outside the ACIA. It is worth noting that Indonesia recently decided to cancel all BITs. This implies that the country is cautious with respect to ISDS, although it does not have a plan to cancel investment arrangements attached to FTAs, including ACIA (Hamzah, 2018). In contrast, several ASEAN members joined TPP, which includes ISDS, and they can be regarded as states that are positive toward ISDS (Singapore, Malaysia, Brunei Darussalam, and Vietnam). The position of the Philippines and Thailand toward ISDS outside of ACIA is unclear. What about the position of states other than ASEAN member states? RCEP, for which the negotiations were launched in 2012 and the signing of the agreement occurred in 2020, is an interesting case

because it involves many ASEAN partners (China, Japan, Korea, Australia, and New Zealand). The RCEP decided not to include ISDS. However, just because of this, we cannot argue that all RCEP members are negative toward ISDS. The situation of each "ASEAN plus one" agreement gives us some idea about ASEAN FTA partners' attitude toward ISDS. The five parties that have signed agreements with ASEAN at almost the same time as ACIA are useful in this regard: ASEAN–Japan was signed in 2008, ASEAN–China in 2009, ASEAN–Australia–New Zealand in 2009, and ASEAN–Korea in 2009. Among them, only the one with China does not include ISDS. This clearly shows that China is most cautious toward ISDS. Further, the TPP also gives us some idea regarding states' attitudes toward ISDS. Japan, Korea, Australia, and New Zealand are members of the TPP.

Table 3 shows the relationship between the domestic constitutional review system and their attitudes toward ISDS. The Philippines and Thailand are excluded because their international preference is unclear as discussed above. It is unclear whether there is a solid correlation between the two, but several interesting patterns can be identified. First, countries that have concrete constitutional reviews are usually positive toward ISDS. Interestingly, countries that are often regarded as civil law states, such as Japan, have a common law-type constitutional review (concrete review) and accept ISDS. Second, three states have an abstract constitutional review and two of them are against ISDS (Indonesia and China). One important reservation is that the states' positions on this sensitive issue area have changed over time. For example, Australia, which has a common law-type concrete constitutional review mechanism, traditionally signed many investment agreements with ISDS, but recently has started to maintain some distance from it. This is partly because of the Philip Morris case (Australia was sued by Philip Morris under the Hong Kong–Australia BIT; see Chaisse & Hamanaka, 2018, for details).

4.4. Trade in Goods

As discussed in Section 3.1, differences in domestic trade regimes between common law and civil law states are no longer prominent nowadays, unlike in the 19th century, when the Cobden-Chevalier Commercial Treaty was signed. This is partly due to participation in international institutions such as the WTO. However, states' preferred

Table 3. Constitutional review and ISDS.

| | Concrete constitutional review | Abstract constitutional review |
|-----------------------------|--------------------------------------------------------------|--------------------------------|
| Relatively positive to ISDS | Singapore, Malaysia, Brunei Darussalam, Australia, NZ, Japan | Korea, Vietnam |
| Relatively negative to ISDS | — | China, Indonesia |

Notes: The Philippines and Thailand are not included because their preference for ISDS is unclear; the Philippines has a concrete constitutional review, while Thailand has an abstract constitutional review.

level of distinction in terms of origin/roots is also embedded into domestic regimes covering issues other than trade (Figure 2). For example, the preferred level of distinction in terms of origin/roots is also embedded into states' nationality regimes. The concept of the nationality of individuals in common law societies tends to be open as well as fuzzy. A typical common law nationality regime recognizes the holding of multiple nationalities. Citizenship/nationality can be obtained not only by descent but also by place of birth (where birth within a territory automatically confers citizenship/nationality) and by naturalization. A good example is the UK, where the concept of nationality has been ambiguous (Cesarani, 2002). Nationality in common law societies can be blurred because they use "domicile" as a connecting factor for jurisdiction (Kruger & Verhellen, 2011). In a typical civil law nationality regime, dual nationality is not recognized and citizenship is not conferred by place of birth, naturalization, or marriage. In a typical civil law society, nationality is conferred only by descent (de Groot & Vonk, 2018) and serves as a connecting factor or basis for jurisdiction (Kruger & Verhellen, 2011).

There is one advantage of using nationality regimes as a proxy: We can address the endogeneity problem to a certain degree. While this study argues that domestic institutions shape international commitment ("inside-out"), we cannot rule out the reverse causality, that international commitments shape the form of domestic institutions ("outside-in"). Even when correlations between domestic trade institutions and international trade preferences can be observed, some may argue that they are the result of the outside-in effect. By using nationality regimes, however, we can solve this problem to a certain degree. Participation in international trade agreements may shape domestic trade regimes but certainly does not shape nationality regimes. Thus, when a correlation between a domestic factor (nationality regime) and international participation (trade agreements) can be observed, the inside-out effect is likely to be the case.

However, the argument can be made that nationality regimes are not necessarily a good proxy for trade administrative regimes because states' nationality regimes are "disrupted" by political sensitivities. For example, hypothetically speaking, there is a possibility that nationality regimes in states like Singapore and Malaysia could be disrupted by the political sensitivities of overseas Chinese. In other words, their nationality regimes are not akin to the common law because of the factors associated with overseas Chinese, which implies that they are not a good proxy for the real preference for the treatment of foreign entities such as foreign products. Hence, only when we can safely assume that each state's unique factors associated with its nationality regime are not crucial can nationality regimes be a good proxy for trade regimes.

Nationality regimes of Asia-Pacific states are classified into three types. In this study, nationality regimes, where dual nationality is allowed, are referred to as common law-type nationality regimes. These countries are Australia, Canada, New Zealand, Peru, and the US. Civil law-type nationality regimes refer to those where nationality is conferred only by descent. China, Japan, Korea, and Vietnam fall into this category. Other states are classified at mixed regimes, where dual nationality is not recognized, but nationality is given not only by descent but also, for example, by birth and naturalization.

Under RCEP, members can decide whether to opt for a common concession or a country-specific concession. Table 4 provides the relationship between domestic nationality regimes and their tariff concession methods under RCEP. Some correlation can be observed. Among RCEP members, states that have common law-type nationality regimes employ common concession without exception. Likewise, states that have civil law-type nationality regimes employ country-specific tariff concession without exception. The concession method of states with mixed nationality regimes varies without clear correlations. Some opt for common concession, while others opt for country-specific concession.

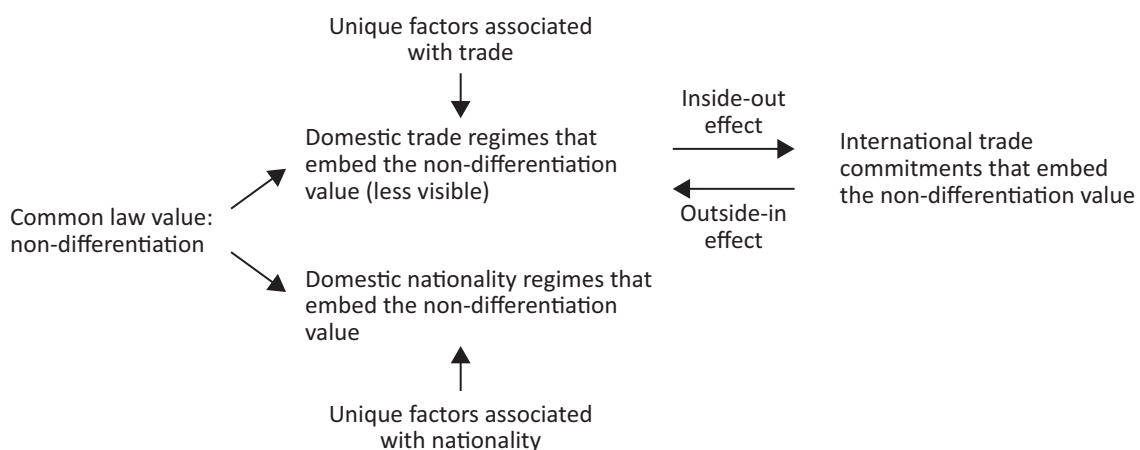


Figure 2. Trade and nationality regimes.

Table 4. Nationality regimes and tariff concession methods under RCEP.

| | Common law-type nationality regime | Mixed nationality regime | Civil law-type nationality regime |
|-----------------------------|------------------------------------|--------------------------------------------------------|-----------------------------------|
| Country-specific concession | — | Thailand, Philippines, Indonesia | Japan, China, Korea, Vietnam |
| Common concession | Australia, NZ | Singapore, Malaysia, Brunei Darussalam, Cambodia, Laos | — |

Table 5. Nationality regimes and tariff concession methods under TPP.

| | Common law-type nationality regime | Mixed nationality regime | Civil law-type nationality regime |
|-----------------------------|------------------------------------|----------------------------------------|-----------------------------------|
| Country-specific concession | — | Chile, Mexico | Japan |
| Common concession | Australia, NZ, US, Canada, Peru | Singapore, Malaysia, Brunei Darussalam | — |

Note: The US and Canada have differentiated tariffs for motor vehicles from Japan.

While common concession is the norm in the TPP, each member is allowed to give different tariff treatments to other TPP parties, though this is rather exceptional. Table 5 shows the relationship between domestic nationality regimes and their tariff concession methods under the TPP. Five TPP parties have a common law-type nationality regime and all of them adopt the common concession method (although Peru is generally regarded as a civil law state, its nationality regime is akin to common law, meaning that dual nationality is usually recognized). It may well be the case that states in the Western hemisphere tend to recognize multiple nationalities. Importantly, however, Latin American states that are largely classified as civil law states tend to have a common law-type regime regarding origin/roots (nationality) and they employ the common concession method for tariffs. Two TPP parties have civil law-type nationality regimes (Japan and Vietnam). It is important to note that Japan decided to employ country-specific concessions even under the TPP. Vietnam’s concession method in the TPP is not included in the correlation analysis because, while it employed common concession in TPP, Vietnam was allowed to exclude an exceptionally large portion of sensitive products from the TPP liberalization list. In fact, for the manufacturing sectors, upon entry into the TPP Vietnam immediately abolished tariffs on 70.2% of all manufacturing products (tariff lines). For agricultural sectors, it immediately abolished tariffs on 42.6% of all agricultural products (tariff lines). These figures are the lowest among all TPP members for both the manufacturing and agricultural sectors (World Economic Forum, 2016, pp. 5–6). If Vietnam were requested to commit a higher level of liberalization under TPP, it would have been imperative for the country to adopt country-specific concession. Finally, the concession method of states with mixed nationality regimes does not show a clear tendency. Some opt for common concession, while others

opt for country-specific concession. We can find some correlation between nationality regimes and the concession method among TPP members as well.

5. Conclusion

Legal traditions have some influence on states’ preferences in international cooperation in an issue-specific area. Existing quantitative studies often attempt to estimate the impact of legal tradition codified as a binary variable on participation in international agreements. When the impact is positive, studies often speculate that such an international agreement is common law-like.

However, what matters is not legal tradition per se but domestic institutions that embed the legal tradition. Because domestic institutions embed non-legal traditions as well, states that are usually considered common or civil law states may have domestic institutions of the other type. States that have a common or civil law-type domestic regime in a certain issue area prefer the corresponding common or civil law-type for international cooperation in the same issue area. Hence, we need to carefully examine domestic institutions that ended various traditions including legal traditions to identify domestic factors that influence international cooperation.

Common law states and civil law states have different approaches to social governance. The differences are clear in the three issue areas studied in this article. Common law states often have vague concepts of origin/roots, emphasize the significance of case law and value individuals’ rights. Hence, they prefer a non-discriminatory trade policy, continuous case-by-case assessment for professionals, and concrete constitutional control. In the international arena, these preferences are translated into their strong support of MFN, MRAs, and ISDS. In contrast, civil law states often have a top-down definition of foreign and domestic,

value the stability of written documents, and emphasize the importance of systematic interpretation of laws. Hence, they prefer tailor-made trade policy, across-the-uniform paper-based examinations for professionals, and abstract constitutional control. In the international area, these preferences are translated into differentiated treatment of products depending on origin, internationally harmonized paper-based examinations, and state-state negotiations and/or dispute resolution for investment.

Finally, I would like to discuss the issue from a policy perspective, especially policies on international and strategic cooperation. One important finding of this article is that what matters for international cooperation is domestic institutions, not legal tradition per se. Issue-specific international cooperation is likely to face difficulties when participants' domestic institutions are inconsistent. States with common/civil law traditions tend to have common/civil law-type domestic institutions, but this is not always the case. This in turn means that if a potential partner's domestic regulatory regimes can be adjusted, international cooperation is more likely to succeed. With technical and other forms of assistance, a state can help develop the regulatory regimes of potential partners in line with its own. Hence, to realize desirable international cooperation, changing the potential partner's domestic institutions is critically important.

What does this mean for ongoing international integration projects, going beyond the Asia-Pacific region? The EU adopted the new Economic Security Strategy in June 2023, which includes "partnering" as one of its three pillars. The critical component of the EU's partnership strategy is the signing of FTAs or EPAs, which encompass regulatory issues. The competition between the EU and the US in the field of economic diplomacy will intensify. This is especially true for the post-Brexit era. The EU is likely to prefer civil law-type international cooperation, while the Anglo-Saxon states (the US and the UK) support common law-type international cooperation. For example, since 2015, the EU has worked toward the establishment of a permanent multilateral investment court as an alternative to ISDS (Puig & Shaffer, 2018). The EU-Vietnam FTA foresees the establishment of a permanent multilateral investment court and contains a reference to it. This is interesting because, as the analysis above suggests, Vietnam has an abstract constitutional review system, but still agrees to ISDS under the TPP. Ways to expand strategic engagement with countries like Vietnam will be critical for both the EU and the US and the real question here is how to adjust or alter potential partner's domestic systems to be in line with those of the EU or the US. Currently, Vietnam can go either way in investment management: ISDS or permanent investment court. The bottom line is that, without strategic engagement to adjust the policies of potential partners' domestic systems, international strategies are unlikely to be successful.

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Conflict of Interests

The author declares no conflict of interests.

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About the Author

Shintaro Hamanaka is currently a senior research fellow at the Institute of Developing Economics of Japan (IDE-JETRO). Between 2018 and 2020, he was on sabbatical from IDE-JETRO and held a resident fellowship at the Johns Hopkins University, School of Advanced International Studies (SAIS), and at the Wilson Center in Washington, D. C. Before joining IDE-JETRO in 2016, he worked for the Asian Development Bank (ADB) and the Bank of Japan (BOJ).



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