THE EU AND THE POLITICAL ECONOMY OF TRANSATLANTIC RELATIONS
The EU and Transatlantic Economic Relations
Interdependence and Shifting Regime Constellations

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Introduction

This book is focusing on transatlantic economic relations. These relations form an important part of the external relations of the European Union (EU). They include trade, money and finance, foreign direct investments (FDI), competition policy, and other economic relations, but they largely exclude security-related relations, even if security relations can affect economic relations in various ways. Some would argue that security relations form a certain space within which economic relations can develop. If security relations are benign, economic relations can prosper. In the title of this book I have used the term “political economy”. This indicates that we are at the intersection of politics and economics, where states and markets interact. There is an academic tradition of studying International Political Economy (IPE), now sometimes called Global Political Economy (GPE) to indicate that it is also transnational, involving more actors than states (Gilpin 1987; Strange 1988; Laursen 1995; Gilpin 2001; Laursen 2009; Walter and Sen 2009; and Verdun 2011). Authority and exchange would be two other concepts that could indicate what kind of relationships we are interested in.

In the North Atlantic area, the North Atlantic Treaty Organization (NATO) has been a central organization in the area of security, but there has been no comparable organization in the economic area. True, the Organization for European Economic Cooperation (OEEC) was established in 1948. At the beginning, it had 18 Western European members. A major purpose in the early years was the distribution of the Marshall Aid from the United States to Western European after World War II. It became the Organization for Economic Cooperation and Development (OECD) in 1961, with a broader membership and mandate. The United States and Canada joined at that time. Later other mostly industrialized
countries joined, including Mexico in 1964. Today, the OECD has become a kind of think tank for the industrialized countries. It gives advice to the governments but it does not form what scholars in the 1960s and 1970s started calling an international regime.

Krasner defined a regime as “implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations” (Krasner 1982; see also Little 2005). The study of international regimes was an important part of the so-called neo-neo debate in the 1980s and early 1990s. Neo-realists took a fairly sceptical view to the possibility of creating strong international regimes while neo-liberal institutionalists were more optimistic (Keohane 1986; Baldwin 1993). Neo-realists tended to focus on relative gains, while neo-liberal institutionalists focused on absolute gains. At the end of the debate, both groups agreed that states are the main actors and that states behave rationally (Jackson and Sørensen 1999).

The political economy of transatlantic relations is dominated by complex interdependence (Keohane and Nye 1977). In efforts to manage this interdependence, the states in the region face collective action problems. In the main areas studied in this book, namely trade, money, and environment, there are temptations to defect from agreements, in the form of protectionism, competitive devaluations, and pollution, as well as distribution problems, where some states may benefit more than others. Both global and regional regimes have been created in efforts to deal with these collective action problems. But with the two main actors, the EU and the United States, often having diverging interests, it is difficult to create and maintain efficient and equitable common institutions. Without such institutions unilateral action – and power – become ingredients in otherwise close relations. In the following, I shall give an overview of multilateral as well as more region-specific regimes and trace the development of EU competences and decision-making procedures in these areas.

**Multilateral Regimes**

Regimes that affect the transatlantic area tend to be wider than the Atlantic area, in some cases near-global in coverage. Right after World War II, the International Monetary Fund (IMF) established the monetary regime, and the General Agreement on Tariffs and Trade (GATT) was the trade regime. The United States played a leading role in establishing

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1 Information on the OECD is available on the website: <http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html>. [Accessed 11 February 2012].
these so-called Breton Woods institutions, including also the World Bank.

The central currency in the monetary regime was the US dollar. Many national currencies were pegged to the dollar at a fixed exchange rate. The dollar itself in turn was linked with the price of gold. This system came under pressure in the late 1960s, partly because of US spending in the Vietnam War (Verdun 2011). In 1971, US President Nixon cut the link with gold and let the dollar float. This led to efforts in Europe to create currency stability through various forms of cooperation, including the so-called “snake in the tunnel” in the first part of the 1970s and later the European Monetary System (EMS) from 1979. The Maastricht Treaty establishing the EU (1993) included the plan for Economic and Monetary Union (EMU), which created the single currency, the euro in 1999.

The GATT, on the other hand, was based on various principles and rules: most-favoured nation (MFN) treatment, prohibition of quantitative restrictions (QR), gradual reduction of tariffs through rounds of trade negotiations, and national treatment of foreign products (no tax discrimination, for instance). Deviations from MFN treatment were allowed for customs unions and free trade agreements (FTAs). This allowed the European Economic Community (EEC) to establish a customs union and some countries, which did not join the EEC at the outset, to form the European Free Trade Association (EFTA) in 1960.

The Uruguay Round of the GATT (1986-93) expanded the agenda of international trade policy to include agriculture, services, and trade-related aspects of intellectual property rights (TRIPS). It strengthened the dispute settlement system in the new World Trade Organization (WTO), which emerged from the round in 1994. Today, the WTO arguably includes three regimes: the GATT, as well as the General Agreement on Trade in Services (GATS) and the TRIPS agreement.

Since the EU and the North American states all are members of the WTO, transatlantic trade relations are governed by WTO principles: MFN treatment, national treatment, etc. Having an international regime does not hinder trade conflicts. As a matter of fact, there have been a number of transatlantic trade conflicts, some referred to as trade wars, through the years, starting with a chicken war (1963-64), relatively soon after the creation of the EEC in 1958 (Piening 1997). Bilateral negotiations are one way of dealing with trade conflicts. Another is dispute settlement through GATT/WTO, and this road has become more common in recent years, especially after a strengthening of dispute settlement under the WTO.
EU Policies and Decision Making in External Economic Relations

The EU’s latest constitutive treaty, the Lisbon Treaty, which entered into force in December 2009, includes the concept of “external action”, which covers external economic relations as well as the Common Foreign and Security Policy (CFSP), which in turn includes the Common Security and Defence Policy (CSDP). The guiding idea was to bring more coherence and efficiency to the EU’s external action. The treaty created the post of High Representative (HR) of the Union for Foreign Affairs and Security Policy. The HR is a vice president of the European Commission, chairs the Foreign Affairs Council, and heads the newly established European External Action Service (EEAS). The current HR is Lady Catherine Ashton. However, decision making for external economic relations and CFSP remain different, the former largely using what used to be called the Community method, while the latter remains intergovernmental. The Community method gives the Commission an exclusive right of initiative, allows for qualified majority voting (QMV) in the Council, and the European Court of Justice (ECJ) is competent to judge cases. In CFSP, the Member States remain the decisive actors, normally unanimity is required, the Commission has less influence, and the ECJ is excluded except when it comes to judging the borderline between CFSP and external economic relations (Laursen 2012).

The Common Commercial Policy

The Common Commercial Policy (CCP) was from the beginning an exclusive competence of the European Economic Community (EEC), which became part of the first pillar of the EU created by the Maastricht Treaty in 1993. The Treaty of Rome establishing the EEC in 1958 gave the Commission an exclusive right of initiative in trade policy. It established a trade policy committee (Art. 113 Committee) of senior national trade officials and included QMV in the Council of Ministers. Interestingly enough, it did not mention the European Parliament. International trade agreement negotiations would be conducted by the Commission in co-operation with the special trade policy committee on the basis of a mandate from the Council (Woolcock 2000).

Trade policy at the time basically meant trade in goods. The treaty specifically said that the CCP “shall be based on uniform principles, particularly in regards to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalization, export policy and measures to protect trade such as those taken in the event of dumping or subsidies” (Art. 113).
The scope of trade policy in the Treaty of Rome covered what GATT dealt with at the time. But international developments were gradually expanding the scope of international trade policy. Non-tariff barriers to trade (NTBs) got on the GATT agenda in the 1970s. The outcome was the rather weak Tokyo Codes dealing with some of these (Winham 1986). About the same time, the EEC Member States started realizing that it is not enough to abolish tariffs and QRs within the customs union to realise free internal trade. Here too, NTBs became an obstacle, which was subsequently dealt with through the Internal Market Plan in the 1980s (Young and Wallace 2000).

The founding fathers had foreseen that harmonisation of national legislation was necessary to create an internal market. The Treaty of Rome included an article that required unanimity for such harmonisation (Art. 100). It turned out that it was often impossible to reach agreement on the necessary legislation. Sometimes the ECJ stepped in and made rulings. This included the famous Casis de Dijon ruling, which established the principle of “mutual recognition” for the internal market in 1979 (Hix 2005, p. 124). Eventually, the Single European Act (SEA) in 1987 introduced a new Article 100a, which allowed for QMV, with some exemptions, to harmonise legislation. This gave European integration a new momentum in the run up to 1992, the official deadline for completing the internal market. The Commission had concluded that nearly 300 directives were necessary to realise the four freedoms of the internal market, namely free movement of goods, services, capital, and people (Young 2010).

At about the time when the SEA was negotiated, the Uruguay Round of GATT got started. The agenda now included agriculture, a sensitive topic for the EEC, services, trade related aspects of intellectual property rights (TRIPS), trade-related aspects of investment measures (TRIMS), and dispute settlements. The Common Agricultural Policy (CAP) increasingly produced a surplus that was dumped on the world market with EEC subsidies, something resented by a number of producers of agricultural products in third countries. In the end, the EU had to reform the CAP in order for the Uruguay Round to be concluded in 1993. The decisive agreement on CAP reform was reached with the United States at the Blair House in Washington in 1992, only to have France claim that the Commission had gone beyond its mandate. Subsequently, some side-payments to France had to be produced internally in the EU (Paemen and Bensch 1995).

The external dimension of the internal market was ignored by the Commission at the beginning. Trading partners, including the United States and Japan, started talking about “Fortress Europe”, claiming the EEC was protectionist and inward looking. Eventually, towards the end
of 1988, the Commission responded and claimed that Europe 1992 would be a World Partner (European Commission 1988). The same point was repeated by the heads of state or government when they met in the European Council at the Rhodes Summit in December 1988:

The Single Market will be of benefit to Community and non-Community countries alike by ensuring continuing economic growth. The Internal Market will not close in on itself. Europe 1992 will be a partner and not a “Fortress Europe”. The Internal Market will be a decisive factor contributing to greater liberalization in international trade on the basis of the GATT principles of reciprocal and mutually advantageous arrangements. The Community will continue to participate actively in the GATT Uruguay Round, committed as it is to strengthen the multilateral trading system. (In Laursen 1991, p. 8)

The conclusions from Rhodes went on to say, *inter alia*, “The Community will continue to work closely and cooperatively with the United States to maintain and deepen the solid and comprehensive transatlantic relationship” (*ibid.*).

When the Uruguay Round was concluded, the question came up whether it was a trade agreement that the EU as such could ratify or whether the Member States had to ratify it too. The Commission sought an answer to the question from the ECJ, which determined that GATS and TRIPS were shared competences. So the agreement was a mixed agreement that also required ratification by the Member States. In the treaty reforms that followed the Uruguay Round, therefore, there were efforts to extend the definition of trade in the EU treaty to include services and intellectual property. They were included by the Treaty of Amsterdam, but decisions had to be by unanimity. The Treaty of Nice introduced QMV for services and intellectual property. However, the sensitive areas of “cultural and audiovisual services, educational services, and social and human health services” would still require unanimity (Art. 133 TEC).

The Treaty of Lisbon retains QMV for services and intellectual property and extends it to the new category of foreign direct investment (Laursen 2012). However, it retains unanimity for cultural and audiovisual services (“where these agreements risk prejudicing the Union’s cultural and linguistic diversity”) as well as social, education, and health services (“where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them”). So, with exceptions, the recent treaty changes have enlarged the exclusive commercial policy competence of

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the EU. Finally, the Lisbon Treaty introduces the ordinary legislative procedure for commercial policy, thus giving the EP a strong role in commercial policy (Art. 207 TFEU). Making the EP a co-legislator in trade policy is one of the more important innovations of the Lisbon Treaty. It may lead to a greater concern for human and labour rights, as well as consumer protection and safety (Meunier and Nicilaidis 2011, p. 282; Niemann 2012).

Despite having built up a pyramid of relations with third countries, including preferential treatment of neighbouring countries and former colonies in the African, Caribbean, and Pacific (ACP) countries through the Lomé Convention of 1975, now Cotonou Agreement from 2000, the EU has traditionally emphasized multilateralism and GATT/WTO treatment of at least its major industrialised trading partners. So countries like the United States and Canada were at the bottom of the hierarchy of trade preferences, based on MFN treatment and other GATT principles, but not offered preferential treatment. This may be changing now, partly because of the lack of progress in the WTO’s Doha Development Round. In 2006, Trade Commissioner Peter Mandelson announced a new policy called “Global Europe”, in which the possibility of more bilateral agreements, also with industrialised countries, was announced: “Our core argument is that rejection of protectionism at home must be accompanied by activism in creating open markets and fair conditions for trade abroad” (European Commission 2006, p. 6). Some of the emerging economies were seen as rather protectionist. The multilateral trading system was viewed as important, and the EU remained committed to the WTO and was working for resumed negotiations. But,

Free Trade Agreements (FTAs), if approached with care, can build on WTO and other international rules going further and faster in promoting openness and integration, by tackling issues which are not ready for multilateral discussion and by preparing the ground for the next level of multilateral liberalisation. Many key issues, including investment, public procurement, competition, other regulatory issues and IPR [intellectual property rights] enforcement, which remain outside the WTO at this time can be addressed through FTAs. (Ibid., p. 10)

The document specifically mentioned ASEAN, Korea, MERCOSUR, India, Russia, and the Gulf Co-operation Council as potential FTA partners. The North American partners were not (yet) mentioned as potential FTA partners. In a section on Transatlantic Trade and Competitiveness it was stated:

The transatlantic trading relationship is by far the largest in the world and at the heart of the global economy. The economic gains from tackling non-traditional behind-the-border barriers are potentially significant in the EU.
and US. We have been seeking to do so for some time, most recently through the Transatlantic Economic Initiative launched in 2005, and a range of regulatory dialogues. Despite some progress, this has proven to be difficult territory and further injection of momentum is necessary. (Ibid., p. 12)

But no Transatlantic FTA was proposed. Soon, however, it was to get on the agenda with Canada, but not the United States. Mexico already had a kind of FTA negotiated in the late 1990s and in force since 2000.

**Economic and Monetary Union**

The Economic and Monetary Union (EMU) is an exclusive competence for the Member States that have adopted the single currency, the euro. EMU was an important part of the Maastricht Treaty creating the EU. There had been monetary co-operation before among EC states. The Treaty of Rome called for macro-economic co-operation, especially concerning conjunctural policy (Art. 103) and balance of payments (Art. 104) and established a Monetary Committee with advisory status (Art. 105). According to Article 104, it was up to the Member States to “pursue the economic policy needed to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while taking care to ensure a high level of employment and a stable level of prices”.

The idea of EMU was subsequently proposed at The Hague Summit in 1969 and a plan, the Werner Plan, was worked out. It foresaw the establishment of EMU during the following decade. This was at about the time that the Breton Woods system was starting to crumble. But the Werner Plan was too ambitious at the time. Instead, some Member States in 1972 started cooperating about limiting currency fluctuations, within the “snake”, limiting exchange rate fluctuations to max. ± 2.25 per cent. This co-operation had its limits and flaws, so in 1979, the European Monetary System (EMS) was initiated. EMS established an Exchange Rate Mechanism (ERM) and a European Currency Unit (ECU) based on a basket of currencies. Currency movements were limited to 2.25 per cent around parity (Hodson 2010; Verdun 2011).

EMS was successful in creating macro-economic convergence in the 1980s, and EMU got on the agenda again, as a next step. The SEA added a new Article 102a about co-operation in economic and monetary policy. It mentioned “Economic and Monetary Union” for the first time, but in a bracket. Although EMU was on the agenda, the Member States were not yet ready for treaty-based commitments. “In order to ensure the convergence of economic and monetary policies which is necessary for the further development of the Community Member States shall
cooperate”. The experience acquired within the EMS should be taken into account. Should institutional changes be necessary, it would require another treaty amendment, it was said. Such treaty amendment followed with the Maastricht Treaty. In the meantime, a committee chaired by Commission President Jacques Delors had prepared a report in 1988, which outlined three phases towards EMU. These phases became part of the Maastricht Treaty. The third phase saw the creation of the European Central Bank (ECB) and the introduction of the common currency, the euro, from 1999.

To qualify for taking part in the euro, the Member States had to fulfill certain so-called convergence criteria:

- **Price stability**: Inflation rate may not be higher than 1.5 per cent of the average inflation rate of the three best performing Member States.
- **Sound public finance**: The government deficit may not exceed 3 per cent of the GDP.
- **Sustainable public finance**: The government debt may not exceed 60 per cent of GDP.
- **Durable convergence**: Nominal long-term interest rate may not be higher than 2 per cent of the average of the three best performing Member States in terms of price stability.
- **Exchange rate stability**: Observance of normal fluctuation margins in the European Exchange Rate Mechanism (ERM), without devaluation for at least two years (Art. 109j and Protocol No. 6 on the Convergence criteria; Hodson 2010, p. 162).

After the entry into force of the Maastricht Treaty, the Germans, in particular, wanted to establish stricter rules for fiscal policy, which basically remained a national responsibility according to the Maastricht Treaty. Some governments hesitated, including the French government. These governments wanted to be able to use fiscal policy to create jobs, especially as they lost their monetary policy autonomy. The outcome was the adoption of the Growth and Stability Pact at the time when the negotiations of the Amsterdam Treaty were concluded in June 1997. The main elements were:

- Governments will aim to achieve a balanced budget.
- Countries with a budget deficit exceeding 3 per cent of GDP will be fined up to 0.5 per cent of GDP.
- These fines will not be applied if there are exceptional circumstances, such as a natural disaster or a decline in GDP of more than 2 per cent in one year.
In cases where the drop in GDP is between 0.75 per cent and 2 per cent, the application of the fine will be decided by EcoFin [the Council of Economic and Finance Ministers] by a QMV.3

The Growth and Stability Pact was not part of the treaty but a separate resolution. Subsequently, it was complemented by two regulations (McNamara 2005). Regulations are legally binding. However, the commitments were insufficient. In connection with the economic slowdown in 2001-2, several governments started borrowing in excess of 3 per cent, including Germany and France. EcoFin failed to act on Commission recommendations. A softer version was adopted in 2005, and excessive deficit procedures against Germany and France revoked in 2007, after fiscal improvement in 2006 (Hodson 2010, pp. 172-173).

The collapse of the US sub-prime loan market in August 2007 had serious repercussions in Europe. For the first time, the euro area entered into recession, a number of European banks had to be rescued, and some national governments stepped in to assist their banks. The ECB also injected liquidity into the monetary markets, and in October 2008, the first of a number of interest cuts took place. In March 2009, a high-level group headed by Jacques de Larosière recommended major changes in the EU financial mechanisms. This led to the creation of the European Systemic Risk Board (ESRB) (Hodson 2010, pp. 176-178).4

But that was not the end of the story. The sovereign debt crisis followed, especially with Greece being unable to finance or refinance its debt. This exposed the asymmetrical nature of EMU, with a centralized monetary policy and decentralized fiscal policy. To make things worse, the Maastricht Treaty had a no-bailout clause (Art. 104b in the Maastricht Treaty, now Art. 125 TFEU), so rules had to be bent to assist Greece, but the situation was further complicated by strong political resentment against the southern members of the euro zone who faced the debt crisis: Portugal, Italy, Greece, and Spain (by some named the PIGS, or PIIGS, if Ireland is included). The idea behind the no-bailout clause was to avoid so-called “moral hazard”, i.e., a temptation to engage in imprudent fiscal policies (Verhelst 2011, pp. 9-10).

A rescue package of €750 billion was approved by EcoFin in May 2010 through the new temporary European Financial Stability Facility

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On 16 December 2010, the European Council agreed to amend the Lisbon Treaty to allow for the creation of a permanent bailout mechanism, the European Stability Mechanism (ESM) to replace the temporary EFSF beginning in 2013. In March 2011, the ESM was approved by the European Parliament (Hall and Barber 2010).

Another package was agreed by the euro zone leaders in October 2011, increasing the EFSF to about €1 trillion. At the same time, banks were asked to accept a 50 per cent write-off of Greek debt.

To get financial help, the debt-ridden countries had to adopt austerity measures that were extremely unpopular. In the process, most of the countries changed governments, in some cases because of elections, but in the cases of Greece and Italy, the external pressure brought technocrats into the governments. The crisis of some euro zone members became a crisis for the whole euro zone; some would say the whole EU political project.

The crisis led to calls for fiscal union, where the euro zone countries would give up sovereignty over taxation and budgetary policy and accept enforcement mechanisms through the European Commission. Especially German Chancellor Angela Merkel demanded such a fiscal union. On the other hand, however, she was not willing to accept the idea of Eurobonds issued by the ECB to mutualise part of the sovereign debt. Commission President José Manuel Barroso on 21 November 2011 suggested that Eurobonds, which he called “stability bonds”, could be a good way to deal with the crisis (Taylor 2011).

On 9 December 2011, the European Council again had a meeting dealing with the crisis. All 17 members of the euro zone as well as most other EU Member States agreed to work out an intergovernmental treaty creating a fiscal compact. Given a veto from the British Prime Minister David Cameron, this will not be a revision of the EU treaty, but a new separate treaty. In the end, it was signed by all EU Member States expect the UK and the Czech Republic on 2 March 2012 (Mahony 2012). Since the focus is on fiscal discipline, it does not help the coun-

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8 For an account of the meeting, see “Eurozone crisis live: Germany wins battle on tighter fiscal rules for the euro”, <http://www.guardian.co.uk/business/2012/jan/30/debt-crisis-greece>. [Accessed 18 February 2012].
tries facing the debt crisis in the short run. So the EU still needs to do more about economic growth and job creation.

The pertinence of the euro zone crisis for transatlantic relations became clear when President Obama in his press conference on 6 October 2011 warned against European “gridlock”: “The problems Europe is having today could have a very real effect on our economy at a time when it is already fragile”. In a similar way, US Treasury Secretary Timothy Geithner told the US Senate Banking Committee: “Europe is so large and so closely integrated with the US and world economies that a severe crisis in Europe could cause significant damage by undermining confidence and weakening demand” (quoted from Phillips 2011).

**Environmental Policy**

Environmental policy is an example of a shared competence. The EU competence developed gradually through time. The founding Community treaties in the 1950s did not explicitly include provisions relating to the environment, but the treaties were sufficiently flexible for the development of an environmental policy to start early on, rather explicitly from 1972 when a summit in Paris singled out the environment as being important (Sbragia 2000). This was also the year of the UN environment conference in Stockholm. In Paris in July 1972, the EC leaders declared that particular attention should be given to the environment as a way to improve the quality of life.9

In 1970, in the so-called ERTA case, the ECJ had concluded that “the system of internal Community measures may not be separated from that of external relations” (quoted from Vogler 2011, p. 354). So the moment the EC/EU develops an internal competence it also has an external competence in that area.


Environmental policy was given an explicit treaty basis in the Single European Act (SEA) in 1987. Article 130r stated that action by the Community relating to the environment shall have the following objectives:

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(i) to preserve, protect and improve the quality of the environment;
(ii) to contribute towards protecting human health;
(iii) to ensure a prudent and rational utilization of natural resources.

And the SEA introduced the subsidiarity principle for the environment: “The Community shall take action relating to the environment to the extent to which the objectives referred to in paragraph 1 can be attained better at Community level than at the level of the individual Member States’ (Art. 130 r (4)).

According to Article 130s of the SEA, environmental legislation would require unanimity in the Council. However, if the legislation was part of harmonisation of domestic legislation to realize the internal market, the use of a QMV was possible (Art. 100a).

The Maastricht Treaty subsequently strengthened environmental policy in the treaty. As a general rule it was moved to QMV. However unanimity still applied to sensitive areas:
– provisions primarily of a fiscal nature;
– measures concerning town and country planning, land use with the exception of waste management and measures of a general nature, and management of water resources;
– measures significantly affecting a Member State’s choice between different energy sources and the general structure of its energy supply (Art. 130s(2)).

Given the shared nature of environmental competences, international negotiations can be complicated. They follow the treaty provisions on international agreements. The old Article 300 TEC, now Article 218 TFEU (Lisbon) applies: QMV in Council, EP consultation, co-decision or consent, depending on the issue. The Commission gets a mandate to negotiate. But separate Commission and Member State delegations take part in international negotiations, and each can speak within its sphere of competence (usually the presidency for the Member States, sometimes also for Commission). Much depends on the leadership role of the presidency.

In recent years, the EU has especially been actively involved in climate policy. The UN Framework Convention on Climate Change, 1992, led to the Kyoto Protocol in 1997. The EU played an important role in getting sufficient ratifications to the protocol. It entered into force 2004. It provided for a 5.2 per cent reduction in developed world of “greenhouse gases” (especially carbon dioxide). The EU commitment was 8 per cent (to be shared unequally among the Member States). The US commitment was 7 per cent, and Japan’s 6 per cent. Subsequently,
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In recent efforts to renew the Kyoto Protocol, the EU has so far been less successful. The global summit meeting in Copenhagen in December 2009 ended with a disappointing result seen from the EU perspective. US President Barack Obama turned up in Copenhagen and spoke mostly with the Chinese and other leaders from BRIC countries. The fact that the EU was represented by the Commission President Barroso, the Swedish President in Office Reinfeldt, as well as national leaders, including those representing France, Germany, and the UK, did not make the situation easier (Vogler 2011, pp. 370-73).

Towards Stronger Transatlantic Regimes?

There are now ongoing negotiations between the EU and Canada about a Comprehensive Economic and Trade Agreement (CETA) which could change that.10 And Mexico signed a trade agreement with the EU in the late 1990s. Should the negotiations with Canada succeed, the question will be, what about the United States? And if the EU and the United States were to start negotiating an FTA, the next question would be: How would that affect the multilateral trade regimes?

EU-US Relations11

The United States has traditionally been the EU’s largest trading partner, and there are important flows of Foreign Direct Investments (FDI) both ways. This has created a high degree of interdependence between the two sides of the Atlantic. Together the EU and the US account for about 40 per cent of world trade.

US-EU trade relations have gone through a number of disputes since the early 1960s. An early dispute was the famous Chicken War, 1963-64. A more recent conflict was the one concerning European subsidies to Airbus, 1986-92. A dispute about hormones in beef has been running since 1987, with WTO dispute settlement decisions siding with the US and Canada. Sometimes, the United States threatened to use Section 301 of the US Trade Act, which allowed the US to use unilateral action outside GATT in response to unfair trade practice. In some cases, GATT/WTO panels have contributed to the settlement of trade disputes (Piening 1997, pp. 105-108). A long running conflict about bananas was

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11 This section partly relies on the introductory chapter in Laursen 2009.
eventually solved in 2001 with the EU losing WTO cases finding the EU’s preferential treatment of bananas from the ACP countries in violation of GATT (BBC News 2001).

During the 1990s, there were several efforts to institutionalise EU-US relations. In 1990, the EU and the US agreed on a Transatlantic Declaration (TAD). It was complemented with a New Transatlantic Agenda (NTA) signed in Madrid in December 1995. The NTA itself was formulated in very general terms, mentioning four areas of cooperation: peace and democracy, global challenges, world trade, and bridges across the Atlantic. The section on “contributing to the expansion of world trade and closer economic relations” referred to strengthening the multilateral trading system, implementing the Uruguay Round results, and completing unfinished business – in particular, telecommunications and maritime services (Piening 1997, pp. 108-112).

Discussions about a more formalized relationship between the EU and the US has had relatively limited results so far. Proposals for transatlantic free trade have come up against protectionist forces on both sides as well as a feeling that transatlantic relations should not undermine the multilateral system. A Commission proposal for a New Transatlantic Marketplace (NTM), which would create free trade in services and abolish industrial tariffs by 2010, ran into stiff French opposition at a Council meeting in April 1998. The US wanted NTM talks to include agricultural subsidies and audio-visual trade, both very sensitive issues in France (Smith and Steffenson 2011).

Instead, the EU-US summit in London in May 1998 adopted a joint statement on a Transatlantic Economic Partnership (TEP), the purpose of which was to intensify and extend co-operation in the fields of trade and investment (Smith and Steffenson 2011). In the multilateral area, regular dialogue was foreseen. The bilateral agenda included regulatory co-operation, mutual recognition, alignment of standards and regulatory requirements, consumer product safety, services, procurement, etc. The list suggests the importance of behind-the-border issues in the relations among industrialized countries.

In 2007, a Transatlantic Economic Council (TEC) was created to accelerate government-to-government co-operation with the aim of advancing transatlantic economic integration. According to an EU source, the TEC brings “together governments, the business community and consumers to work on key areas where greater regulatory conver-

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The early period of European-Canadian relations, at the start of the European integration process, is sometimes called the period of indifference. European integration in the 1950s created some unease in Canada because of the Canadian preference for North Atlantic free trade (Muirhead 1992, Ch. 6). The fact that Canada’s most important trading partner in Europe, the United Kingdom, was not a member of the European Community at the beginning eased the Canadian situation. Although the United Kingdom first applied for membership in the European Economic Community (EEC) in 1961, the bid for membership was vetoed by General de Gaulle in 1963 and again in 1967. UK negotiations had the Canadian government of Prime Minister John Diefenbaker very worried. What would happen to the Commonwealth’s preferences?

The United Kingdom finally joined in 1973. Before then, another event was to influence Canadian thinking, the so-called Nixon shocks in 1971, when the US government put a 10 per cent surcharge on imports and made no exemption for Canada. Canadian politicians began considering how to diversify trade in order to become less dependent on the United States. Three options were discussed in 1972 (Potter 1999, pp. 35-36). The first option was to do nothing and resign to “continentalism”, the term used for developing relations first of all with the United States. The second option considered was to embrace continentalism and seek more integration with the United States. The third option was to diversify trade using the EC as a counterweight. It was supported by the government of Pierre Trudeau during the 1970s.

Since 1972, when the EC enlargement was confirmed, there have been high-level bilateral consultations between the EC and Canada. Since 1973, Canada has had an ambassador to the EC, and since 1974, parliamentarians have met regularly. Since 1976, Canada has had a


16 This section partly relies on Laursen 2010.
Framework Agreement for Commercial and Economic Cooperation with the EC. It created what was called a contractual link. It confirmed the MFN treatment and spoke in general terms about commercial and economic co-operation. Institutionally, it created a joint co-operation committee (JCC) to “promote and keep under review the various commercial and economic co-operation activities envisaged”. The JCC would normally meet at least once a year. (Interestingly, the United States did not get a similar contractual link with the EC at the time.) But the outcome was modest (Rempel 1996, Ch. 5).

Given the meagre results of the third option, the second option, continentalism, increased in importance. In the 1980s, the government of Brian Mulroney promoted the Canada-US Free Trade Agreement (1988), and then, in 1993, it was expanded to include Mexico, to form the North American Free Trade Area (NAFTA). These developments, of course, further increased Canada’s trade dependence on its southern neighbours.

In the late 1980s and the 1990s, the internal market plan in Europe affected EU-Canada relations as the creation of the customs union had done at the beginning, but it actually affected FDI flows more than trade. A number of Canadian companies, especially the bigger ones, made important investments in Europe at this point.

At the end of the Cold War, the idea of free trade was again promoted by some Canadian politicians, and the Americans also became interested in developing relations with the EC. In both cases, the new interest led to a Declaration on Transatlantic Relations (TAD), which introduced increased policy consultation and co-ordination and further developed the institutional framework. The Canadian TAD began by adding summit meetings between the prime minister of Canada on one side and the president of the European Council and the president of the European Commission on the other. However, the TAD was vague on specifics.

Later in 1996, a joint political declaration and an Action Plan were adopted. The objective was to strengthen bilateral relations and to enhance economic and security co-operation. Although the Action Plan dealt with a number of issues, including new trade policy issues, such as the environment, investment, competition, labour standards, and intel-

17 For text, see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21976A0706%2801%29:EN:NOT>. [Accessed 11 February 2012].

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intellectual property rights, commitments were not very specific. The economic section mentions the negotiation of a trade and investment enhancement agreement and the development of a voluntary framework for regulatory co-operation. In January 2007, Premier Jean Charest of Quebec spoke out in favor of an FTA with the EU. At the time, the EU Member States were divided. But a joint study by the European Commission and the government of Canada, which was published before the EU-Canada summit in Quebec City in October 2008, suggested important gains for both sides by addressing tariff barriers and nontariff barriers, including discriminatory regulations and standards, as well as liberalizing trade in services (Canada and European Union 2009). The summit meeting, therefore, agreed to explore the idea of a “stronger, ambitious and balanced economic partnership”. The following EU-Canada summit in Prague, on May 6, 2009, then decided to launch negotiations towards a “comprehensive economic partnership agreement”. These negotiations are still ongoing.

EU-Mexican Relations

Mexico got a trade agreement with the EEC in 1975. It was adapted in 1989, and a new one was signed in 1991 but was still only a trade cooperation agreement (Sherro 1999). After two years of negotiations, Mexico entered a so-called Global Agreement with the EU in 1997. The full name is Economic Partnership, Political Coordination and Comprehensive Agreement between the European Community and its Member States, of the one part, and the United States of Mexico, of the other part. Since it was a mixed agreement, going beyond trade, it also involved the Member States as parties. The very first article committed the parties to fundamental human rights, a conditionality clause now becoming standard in EU agreements with third states, something Mexico was not so happy about. The agreement included political cooperation, but from the perspective of this book, a central objective was

to “establish a framework to encourage the development of trade in goods and services, including a bilateral and preferential, progressive and reciprocal liberalisation of trade in goods and services, taking into account the sensitive nature of certain products and service sectors and in accordance with the relevant WTO rules” (Art. 4). Notice the word “preferential”. A Joint Council was established to decide on the arrangements and timetable for a bilateral, progressive and reciprocal liberalisation of tariff and non-tariff barriers to trade in goods, in accordance with the relevant WTO rules, in particular Article XXIV of the General Agreement on Tariffs and Trade (GATT), and taking account of the sensitive nature of certain products (Art. 5).

The Global Agreement entered into force in 2000. Article XXIV is the one authorizing FTAs.

As a result of the Global Agreement, Mexican industrial products have had free access to the EU market since 2003, and EU products have had free access to the Mexican market since 2007. By being a comprehensive agreement, the scope went beyond the WTO. It included the so-called Singapore issues of investment, competition, transparency and trade facilitation (Ciambur n.d.).

No doubt Mexico’s participation in NAFTA was one of the reasons for the EU to seek closer relations with Mexico. Trade diversification was important for Mexico, and Europe could be used as a counterweight to the United States (Sberro 1999). For the EU, Mexico’s proximity to the US was attractive, and European investments in Mexico could be a way to gain access to the US market. Further, the agreement included EU access to public procurement and services in Mexico on conditions similar to NAFTA conditions. Concerning the timing, it is also worth remembering that 1994 was the year of the Summit of the Americas where a Free Trade area in the Americas was proposed (FTAA) (Dominguez 2006).

The latest development in EU-Mexican relations followed in 2008, when the EU and Mexico established a Strategic Partnership. The agenda is rather broad:

1. Political issues, such as multilateralism, democracy, human rights, rule of law, cultural dialogue, Latin America, regional integration, Rio Group;
2. Security issues, such as the fight against terrorism, organised crime, drug and human trafficking;

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3. Environmental issues, such as climate change, natural disasters, fight against overexploitation of fish stocks;
4. Socio-economic issues, such as development policy, investment and social responsibility, innovation and intellectual property rights, open markets, social policies, decent work/social protection, migration, poverty, global macro-financial stability, good governance in the tax area, energy security, sustainability and improved efficiency, food prices.25

In 2010, the parties adopted a Joint Executive Plan of the Strategic Partnership. Again, the broad agenda is clear. The section on trade is relatively short. It refers to the trade part of the Global Agreement as an FTA and claimed that it “has led to a major increase in trade and investment flows in both directions, making the European Union Mexico’s second largest trading partner” (p. 18).

Maybe it should be added here that the United States and Canada are also considered strategic partners of the EU, a concept that is still not very well-defined.

Overview of Book Chapters

In the chapter that follows this introductory chapter, former US Congressman Joseph J. DioGuardi warns about the looming crisis. Focussing at the outset on the United States, he argues that accumulated debt has made the situation financially unsustainable. He partly blames inadequate accounting principles used in the US budget process but also efforts by politicians to disguise deficit spending to get re-elected. DioGuardi sees an urgent need to reduce federal spending, but getting the bipartisan compromise needed will be difficult in an election year. Turning to Europe, there too he finds a debt crisis of enormous proportions. When we learned in the spring of 2011 that Greece’s debt equalled 150 per cent of its GDP, the problem became very clear. But several other EU Member States face sustainability problems.

The next chapters also deal with issues of economic challenges and governance in Europe and the United States.

Ferran Brunet argues that both the United States and the EU face the challenges of financial stabilization and structural reforms. In the US case, there is a twin deficit: fiscal and current accounts deficits. In the EU case, there is a quadruple deficit, adding what he calls an employment deficit and an economic governance deficit. Unemployment rose

on both sides of the Atlantic after the financial crisis started in the United States in 2007 and reached Europe in 2010. In some European countries, extremely high levels of unemployment were reached, and the EU economic governance system can be cumbersome and inefficient. Structural reforms of the labour markets in many European countries are urgently needed to increase competitiveness. Growth levels have been very low, if not negative. And the macro-economic convergence between the two sides of the Atlantic and among EU countries that existed until the 1990s has stopped. Especially among the euro zone countries, gaps have been increasing, and the various measures introduced to deal with the problems have so far been inadequate.

Priyan Nandita Pooran looks at the reforms introduced in the United States and the EU to deal with systemic risk in response to the financial crises. It was realised on both sides of the Atlantic that systemic risk assessment and monitoring should play a greater role in the future to assure financial stability. On the EU side, the institutional innovation was the European Systemic Risk Board (ESRB), under the auspices of and with the logistical support of the ECB. It is a component of the wider European System of Financial Supervision (ESFS), which came into force in December 2010. It was largely based on the so-called De Larosière Report issued in February 2009, subsequently endorsed by the Commission and European Council in May 2009. The ESRB can issue recommendations and warnings, which are nonbinding. In the United States, the Wall Street Reform and Consumer Protection Act 2010 – also known as the Dodd Frank Law – was passed and signed into law in July 2010. It set up the Financial Stability Oversight Council (FSOC) with a number of functions and tasks designed to monitor financial institutions and make recommendations to reduce risks. The US reform also included the establishment of a new Bureau of Consumer Financial Protection.

The following chapters deal with trade issues, beginning with Maria Behren’s chapter on Free Trade Agreements (FTAs) and the emergence of what she calls the transnational competitive state. Recent years have seen a strong turn to the negotiation of bilateral FTAs and both the United States and the EU have taken part in this process, especially negotiating FTAs with developing countries, where they have exploited “asymmetrical interdependence” to their advantage. Using a neo-Gramscian perspective, it is argued that the two big trade policy actors gain economic political power, institutional power, and legitimacy at home through the support from civil society. Their power position allows them to protect non-competitive domestic sectors (such as agriculture) by exclusion from the agreements, but at the same time they can force developing countries to accept the inclusion of labour rights and
environmental provisions and open up these countries for foreign investments and access to public procurement. Liberal institutionalism cannot explain these turns in global trade policy. But given the high transaction costs of the many FTAs – including administration of complicated rules of origin – the world may eventually turn to a multilateral approach again.

In the following chapter, Robert Finbow looks at the Comprehensive Economic and Trade Agreement (CETA) currently being negotiated between the EU and Canada. In this case, we are dealing with two industrialised actors, so the degree of asymmetry presumably is less than, say, between the EU and the Mediterranean non-Member States or the African, Caribbean, and Pacific (ACP) states taking part in the Cotonou agreement. However, Finbow suggests that in the EU-Canada relationship, the EU is the stronger partner, possibly allowing the EU to push changes on Canada that could affect social and environmental policies. It is argued that the EU has become more commercial and less social in its policies towards third countries in recent years. A fear is expressed that Canada may benefit in areas of the old economy (fossil fuels, agriculture, aerospace, chemicals, fish, automobiles, and car parts) while the EU would benefit in the areas of the new economy (including high technology, investments, intellectual property, government procurement, and services). A number of critics have pointed to these problems, but it seems that the Canadian government, which now has a parliamentary majority, is rather determined to move ahead. And even if some European MEPs are concerned about seal hunting, oil sands, and other existing irritants, the EP does have a pro-trade majority.

Nanette Neuwahl and Nicolas Vermeys look at a particular aspect of CETA, namely e-commerce. The chapter situates e-commerce in the wider perspective of CETA. There are three main aspects of e-commerce that have to be dealt with, namely, privacy, information security, and consumer protection. Based on various documents, including a leaked draft from 2010, the authors discuss these issues. We learn about existing legislation in Canada and the EU as well as past cooperation. It seems that protection of privacy and personal information are reasonably well-covered, while the conduct of secure electronic commerce is a more difficult issue, involving issues of authentication, certification, use of electronic signatures, and co-operation to combat illegal activities. Consumer protection especially includes online dispute resolution, which the EU has dealt with, and there are also OECD guidelines. Further, there is ongoing work in wider international fora, such as the United Nations Commission on International Trade Law (UNCITRAL). Another issue is spam, where the EU developed legislation relatively early, followed by Canada recently. Overall, the authors
Finn Laursen

see the CETA chapter on e-commerce as a solid achievement. It is expected to consolidate and reinforce current practices.

In the following chapter, Roberto Dominguez looks at what he calls the other transatlantic relationship, namely EU-Latin American relations. He does so at three different levels: region to region, EU to sub-region and EU to individual states. In the inter-regional section, he mainly looks at the biregional summits that have taken place regularly since 1999. Overall, it seems that the outcomes have been rather limited. Relations with sub-regions, such as MERCOSUR, the Andean Community, and Central America have had relatively high priority for the EU. But efforts to export the EU model has had limited results. Efforts to negotiate inter-regional agreements took place with MERCOSUR from 1999-2004 and resumed in 2010. Negotiations with the Andean group started in 2007 but were unproductive at the inter-regional level due to disagreements among the Andean countries. In the end, separate bilateral FTAs were reached with Colombia and Peru in March 2011. Negotiations with the Central American group starting in 2007 did produce an Association Agreement in 2010. In the section on relations with individual countries, the focus is on Mexico, Chile, and Brazil, with Mexico getting an Association Agreement in 2000 and Chile in 2005. Brazil, which is the biggest member of MERCOSUR, does not have a similar agreement, but due to its status as a BRIC country, it was included in the EU’s group of strategic partners in 2007. Mexico also became a strategic partner of the EU in 2008. Interestingly, EU efforts to negotiate FTAs with Latin American groups or countries largely followed previous steps in that direction by the United States.

The following two chapters look at aspects of competition policy, increasingly on the international trade agenda. Declan Walsh looks at antitrust policy on the two sides of the Atlantic and co-operation among competition authorities. There are divergent approaches to anti-cartel policy in the United States and the EU but also a fair amount of cooperation given the global effect of major cartels. Both sides agree on the importance of investigating cartels and sanctioning them. Cartels are outlawed by both US and EU law, but cartels can be sophisticated when it comes to avoidance of detection. This makes co-ordinated investigations particularly important. Some differences when it comes to sanctions are due to cultural differences. In the EU, sanctions are civil in nature and subject to public enforcement. In the United States, public enforcement may lead to criminal convictions, and private actions for damages are common. The possibility that the EU will move in the direction of the US approach is there, but it remains to be seen how far. At the same time, global co-operation is expected to increase.
Next, Christian Marfels and James Sawler compare merger control policies in the EU and Canada. In both cases, it took quite some time to develop merger policies. We get well into the 1980s before merger control is strengthened as part of the wider competition policies. The authors trace similarities and differences in merger control policy in Canada and the EU. The argument is that differences can be costly. These costs may become more visible if the CETA is concluded successfully.

Rafael Leal-Arcas then looks at climate change policy, focussing on the three largest emitters of CO\textsubscript{2}, the United States, China, and the EU. In this area, the Westphalian state system is challenged. The issue is: Can the world agree on limiting greenhouse gas (GHG) emissions sufficiently? During the Clinton administration, the United States signed on to the Kyoto Protocol, but the George W. Bush administration did not seek ratification of the agreement. The EU went ahead together with some other industrialised states and ratified. Now the challenge is bringing the United States and the developing countries, in particular, the emerging economies like China and India, into a new agreement. Hope that the Obama administration would change US policy was dashed at the Copenhagen climate summit in 2009, which only produced a non-binding agreement. China has, however, turned to more green policies domestically, partly because of the extreme pollution in major cities and health costs associated with pollution. To get an agreement involving both developed and developing countries, equity concerns will have to be addressed.

Next, Anders Hayden asks why Canada and the EU attack each other’s green-energy initiatives. The context is international climate policy. The EU has tried to be an international leader while Canada has been a laggard. Behind this is the fact that Canada has huge oil reserves in tar sand in Alberta. But the exploitation of this reserve is heavy on CO\textsubscript{2} emissions, a problem that modern technology cannot solve, at least in the short run. The EU has, therefore, been very critical of Canadian policy. Canada has responded by lobbying European institutions. The issue gets linked to the CETA negotiations, creating splits in the European Commission between commissioners responsible for climate and trade. Canada also finds more sympathy in the UK and the Netherlands, home to BP and Shell, than in most other Member States, which have embraced ecological modernization. In parallel, Ontario’s Green Energy Act (GEA) has also become an issue, not because of its purpose to create green energy jobs and protect the environment but because it has local content requirements. Both the EU and Japan have taken the GEA to the WTO. Anders Hayden rightly notices that green
policies in Europe have also had strong government support, including, for instance, high subsidies in former.

In the concluding chapter, the editor presents a broad analytical overview of the current situation and tries to look towards the future.

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The complex nature of economic relations across the Atlantic Ocean clearly emerges from the above studies. But the bottom line is that both sides have common interests in promoting trade, currency stability, financial sustainability, and a clean environment. Building good institutions to facilitate those goals is part of the challenge for the governments in the region. As the largest and most powerful actor, it especially falls on the United States to exercise such leadership. But in economic areas the EU is a giant, too. So we also need EU leadership, which is more difficult to get since the EU is a rather decentralized polity and none of its leaders, the Commission President, the European Council President, or the High Representative of the Union for Foreign Affairs and Security Policy have the legitimacy provided by popular elections. Nor has the EU introduced a parliamentary system like the Canadian one.

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