

With Trump, Time to Reinvent the European Trade Policy

By **John Solal-Arouet** and **Denis Tersen**

John Solal-Arouet is the pseudonym of a group of trade experts and negotiators.

Denis Tersen is a French expert on trade, and former French representative in the EU Trade Policy Committee.

The new American administration's protectionist tendencies need to be taken seriously. It is in Europe's interest to preserve the accomplishments brought about in multilateral trade, in particular through adapting WTO practices: conserving "inclusive" global economic agreements, maintaining the balance of norms and management of agreements that have been put in place. For this, Europe must improve institutional efficiency and political cohesion, in short, take some initiative¹.

politique étrangère

"In general, if we want free trade, it is to alleviate the condition of the laboring class, but, surprisingly, the people, whose thus provided bread is cheap enough, is very ungrateful."

Karl Marx, *Speech on Free Trade*, 1848.

The United States has chosen a protectionist and isolationist president. Of course, promises and programs do not automatically become policies once the election is past. But a candidate's program that attacks China and Mexico, threatens to leave the World Trade Organization (WTO), denounces the North American Free Trade Agreement (NAFTA) and the Paris climate agreement, refuses to sign the Trans-Pacific Partnership Project (TPP) negotiated by his predecessor, becomes a commitment for the president. And this all the more so since, while he cannot liberalize on his sole initiative without the consent of Congress, he can put in place border protection measures on his own, or block a treaty by refusing to submit it to the legislative power. On anti-globalization, the new US president shows some coherence: closing borders, for goods and services, as well as for people.

The first nominations do not negate his campaign rhetoric: Wilbur Ross, Secretary of Commerce; Peter Navarro, an "on the defensive but

1. This article was completed on 21 January 2017.

not protectionist”² economist heading the newly created National Trade Council, and Robert Lighthizer, head of the US Trade Representative Office (USTR). They attracted attention through declarations critical of China, and by defending the interests of the “old” industries.³ Reagan administration veteran Robert Lighthizer, who will lead the trade negotiations, is a well-known anti-dumping lawyer.

In the Reagan period, the villain was Japan, the United States having obtained under pressure voluntary export restriction agreements from their “partner”. This was before the WTO, before the “global value chains” that allow US companies to split their production between countries, primarily China, and import or reassemble their products in the United States, and it was at the time of a Japanese market of which the level of closure to imports was far beyond that of China.

Trump’s tweets,⁴ these “chin butts” of the digital age, aimed at companies with investment intentions in Mexico, are also in line with the campaign. The president’s inaugural address on January 20 dispelled any doubts: “Protection will lead to great prosperity and strength.” The first announcements from the White House that evening called for the withdrawal of the TPP and the renegotiation of NAFTA. We have reached that point.

Donald Trump is not alone. Brexit came before, and populist movements are progressing all over Europe. CETA with “Ösmall” Canada (0.6% of French foreign trade) nearly stopped at the signature stage, and its future is uncertain. One could meet these major developments with relative indifference, and consider that, by a trick of history, the populists will rid us of this dangerous free trade and bad agreements such as the TTIP. Moreover, as we have been taught, infrastructure – the material basis, the productive forces – precedes superstructure; world trade is progressing less rapidly than the world’s “wealth” and has even been declining over the past four years. Are we heading clearly and without regret toward the era of deglobalization?⁵

2. M. Cassela, “Trumps Taps China Trade Critic Navarro for New White House Post”, Politico, 21 December 2012, available at: <www.politico.com>. He is the author of *Death by China: Confronting the Dragon*, Upper Saddle River, Pearson Prentice Hall, 2011.

3. Businessman Wilbur Ross is a member of boards of directors of companies in the steel, textile and automotive sectors.

4. The US president elect became for a time a new kind of USTR, the “US Tweet Representative”.

5. The economic analysis reveals a more nuanced reality. The slowdown is largely explained by the sluggish global recovery since the Great Depression in 2008. Trade in services continues to grow. Digital exchanges are largely outside statistics. Trade in goods will regain its pace from before the boost of China’s inclusion in world trade Problem with following phrase? and, as no new China is on the horizon... I. Tomb and K. Trivedi, “Peak Trade Is Premature”, *Voxeu*, 6 January 2017; M. James *et al.*, “Digital Globalization: the New Era of Global Flows”, McKinsey Global Institute, 2016; M. Trimmer *et al.*, “Production Fragmentation and the Global Trade Slowdown”, *Voxeu*, 21 November 2016.

Should we, therefore, take the new America lightly? No. The same symptoms also affect Europe. The difficulties arising from the “commercial” phase of globalization have not been resolved, and the entry into “information” globalization is bringing up new issues. Are we getting signals of the “great convergence” dear to Richard Baldwin?⁶ The third wave of globalization will make it possible to involve people in the production cycle, regardless of their location in the world, and this may meet with even stronger resistance.

Is this resistance really economic in nature, as is suggested by commentators on the American white worker “demotion”? Actually, no: all the analyses on the Trump vote show that it transcends social classes and genders. “It’s not the economy, stupid”⁷ is the ironic comment of those who emphasize the primacy of identity and cultural dimensions in the popular resentment building up against globalized elites. Yet, it is on the economy that populists focus, on building walls, at the risk of exposing their outraged voters to even more geopolitical, economic and democratic hazards. Donald Trump has clearly announced his program to become the commander in chief of the world’s largest economy. If some people are still betting on “a soft Trump”⁸ (as if Giraudoux returned to explain that “la guerre de Detroit n’aura pas lieu”⁹), others, such as Paul Krugman, are not under any such illusions.¹⁰ The trade war is not only an option, it’s a probability.

Europe should be wary. Confrontation with China is inevitable, but the US administration will take the balance of power into account. Being pragmatic, the US will first turn to “partners” more within its reach. Mexico has already been targeted, but a weak Europe will also be on the program. Its bilateral trade surplus vis-à-vis the United States is on the rise.¹¹ There is no lack of sources of friction: aeronautical and agricultural disputes (dating back to the 20th century), digital stakes with multiple dimensions (taxation, competition, data law), German macroeconomic imbalances, climate. Donald Trump’s first address to Europe, his interview with *Bild* and *Times*,¹² precludes any ambiguity. Like other third countries, he will

6. R. Baldwin, *The Great Convergence: Information Technology and the New Globalization*, Cambridge, Harvard University Press, 2016.

7. Available at : <<http://blogs.lse.ac.uk>>.

8. R. Zoellick, “If Trump Really Knows the Art of the Deal, he’ll Embrace Free Trade”, *The Washington Post*, 5 January 2017, available at: <www.washingtonpost.com>.

9. In english: “The war of Detroit will not take place”.

10. P. Krugman, “And the Trade War Came”, *New York Times*, 29 December 2016.

11. In 2015, it exceeds \$155 billion against \$79.6 billion in 2010, admittedly far from the American deficit vis-à-vis China of \$365 billion.

12. Interview available at: <www.thetimes.co.uk>.

try to play the politics of division within the Union, with Brexit offering a major opportunity, particularly in terms of trade policy (even if this may be illusory, the United States and The United Kingdom have already declared that they were planning to reach a free trade agreement within 90 days).

If it does not want to submit passively, Europe needs to set up firewalls and regain the initiative. Can it? Following the recent Walloon uprising against the ratification of the Euro-Canadian agreement (CETA), the “Namur declaration”¹³ reminded that Europe could only re-establish its legitimacy in this field if it finally responded seriously to the concerns resulting from its actions. Three principles may help to achieve this.

Preserving the “acquis” of trade multilateralism

Back to basics before all: globalization does not need more liberalization but more transparency and discipline against the risks of discrimination. Free trade is based on the idea that the market is the best way to produce and distribute added value. Yet, it is neither the only nor always the best way. More interventionist or cooperative forms of creation and value-sharing are equally conceivable in the relations between states. Quotas, joint investments, agreements on industrial or technological partnerships, and scientific or academic cooperation for the production of common goods, are just as legitimate policies for those who wish to exert an influence on the location of activities, on arbitration between producers and consumers, on the pace of changes in job sectors, and their corollary of temporary unemployment.

There is a meeting place where these different approaches to the organization of the world market may be reconciled: the WTO. To think of it as a free-trade institution is an intellectual deviation, which happened during the “happy globalization” phase of the late 1990s. The WTO founding principles and philosophy allow each state to determine its “comfort zone” between public intervention and the market. Therefore, there is no need at the WTO to justify seeking to “preserve the right of its states to regulate”. The Commission has condemned itself to such absurd intellectual acrobatics by pursuing free-trade treaties here, there and everywhere. Because states are sovereign, they can regulate. Because they regulate, they can refuse to liberalize. No-one would consider challenging this right in the multilateral trading system.

13. 5 December 2016. Initiated by Walloon minister Paul Magnette and signed by some forty personalities, academics and economists, it calls for democratic reform of European trade policy.

The text establishing the WTO declares that trade should be a means to “raise standards of living, achieve full employment [...] increase goods and services production and trade, while allowing an optimal use of world resources in accordance with the objective of sustainable development, [...] with a view to protecting and preserving the environment”. Free trade, let alone the “hyper-globalization” denounced by Dani Rodrik,¹⁴ is not conceived as an impassable horizon; the text speaks of a “substantial” reduction of barriers to trade – which is no small feat – on the basis of “reciprocity”.

Protection measures, temporary or otherwise, the maintenance of barriers, and industrial policies are possible, therefore, even beyond the exceptions considered legitimate by the WTO. They can respond to social concerns (giving time for change to people working in sectors under pressure), economic concerns (taking a stronger position in a strategic industry), or political concerns; respond to the anxieties of public opinion to preserve the system, following Dani Rodrik’s¹⁵ idea: protect to a limited extent while maintaining an overall open economy. These policies must, of course, be carefully calibrated, and they are being made more complex by the fragmentation of value chains.¹⁶ But it is important to bear in mind that they have a price: setting up trade barriers means accepting the fact that partners can do the same to our products on their markets. For an economy opened to the world, as is the European economy, this is costly. European wine producers (primarily the Bordeaux châteaux) realized that to their detriment in 2013, when they became victims of anti-dumping duties imposed by China in retaliation against European duties targeted against... photovoltaic Chinese solar panels. Unilateral protection has a cost. It generates the risk of loss of control and chain reaction; that is, triggering a trade war.

In an interdependent world, at a time of fragmentation of value chains, the entry into a cycle of protection and retaliation, evolving according to the players’ balance of power, would be worrying.

If there is willingness to re-examine freedom of trade, the new American power and those who might be tempted to follow it must, at the very least,

14. D. Rodrik, “No Time for Trade Fundamentalism”, *Project Syndicate*, 14 October 2016, available at: <www.project-syndicate.org>.

15. Rodrik speaks of a “maintenance regime” with reference to trade restriction measures taken to deal with the influx of Japanese imports into the United States and Europe in the early 1980s.

16. Richard Baldwin adds: “to put barriers to exchanges is to build a wall in the middle of the factory”. R. Baldwin, *The Great Convergence: Information Technology and the New Globalization*, Cambridge, Harvard University Press, 2016.

take the multilateral approach. This approach may replace power relations with rules, and restore a balance between partners for, in principle, the benefit of the weaker one of the two. Its body of rules provides the possibility of suspending trade liberalization commitments, by activating the safeguard clauses of the agreements, introducing anti-dumping duties. If it is designed to allow reciprocal market-opening offers, it may well work in the opposite direction, to promote orderly trade restrictions. This approach is an alternative to trade war.

Europe is not alone. Globalization has created new players who today are much more interested than previously in preserving the system, starting with the BRICS.¹⁷ If the American “hegemon”, the traditional creator and guardian of the multilateral system, decided to withdraw from it, Europe should fill the gap and lead its major partners in reaffirming the primacy of multilateralism.

Ending trade policy: turning to sustainable trade and inclusive globalization

Trade policy is now at a standstill: people no longer want it. It’s too bad if it is partly the scapegoat or symbol of problems rooted elsewhere. In fact, trade liberalization weighs much less than technical progress or robotization in the actual transformation of the productive system and the reshuffling of jobs. In 1980, 25 workers were needed to produce \$1 million worth of manufactured goods; today it only takes 6.5.18 Mike Froman, who served as the US Trade Representative (USTR) during the second term of President Obama, puts it well: “The problem is that we don’t get to vote on technology. Nobody votes on the next generation of computers or on whether robots will be deployed in the workplace. What we do get to vote on are trade agreements. So they become a magnet of concern, a scapegoat for a broader set of factors that contribute to economic anxiety.” As this observation is political, the answer must be political.

Twentieth-century trade policy (essentially the reduction of customs barriers) and its negotiators no longer have an answer. Trade policy as a leverage of “hyerglobalization” has crashed against the democratic obstacle. The reason for this is that trade policy is an anachronism. Confined in its own silo, with its language and traditional schemes, trade policy is already dead, but does not know it. All other international economic policies have

17. Brazil, Russia, India, China and South Africa, the first five emerging countries to adopt mechanisms to coordinate their international economic policies.

18. M. Muro and S. Liu, “Why Trump’s Factory Jobs Promises Won’t Pan Out – in One Chart”, *Brookings*, 21 November 2016, available at: <www.brookings.edu>.

mainstreamed into Sustainable Development, this melting-pot paradigm that encompasses three pillars: the economic, the social and the environmental. In 2015, the transition from the “millennium goals” to “sustainable development goals” buried the ancient paradigm of “development aid policy”. Trade policy alone has resisted such a change, multiplying smoke-and-mirrors tricks, continuing to focus on pure liberalization, as a headless duck continues to run. And it still has a lot of unfinished business of that kind. The European Union alone is still negotiating around 20 agreements, at more or less advanced stages of negotiations.

Even betting on the continuation of the current status quo, where the WTO would retain its role as global trade regulator, would not be good enough. The harnessing of globalization remains incomplete as long as inconsistencies prevail between international organizations, each confined within its own specialty. Confronted with a world of Trump-era tensions, the powers that remain favorable to an open world and want to remedy its imbalances cannot remain only on the defensive.

Europe needs to actively redefine its proposition to the world. It needs to propose partnerships¹⁹ proactively seeking coherence between the various dimensions of globalization. The EU must now take seriously into account the challenges as well as the undesirable non-economic effects of its interventions. Is that pure abstraction? Or is it fundamentally business-unfriendly? Certainly not. Large Western companies, at least cosmetically, are showing themselves ready to take ambitious steps toward social and environmental responsibility. What are the concrete measures that the Europeans should promote in the negotiating mandates that they give to the Commission?

First chapter: Promote genuinely “inclusive”²⁰ economic agreements, instead of liberalizing, “deep market integration” machines, as the Commission’s ideology has been calling for since the end of the 1990s. The “co-benefits” of trade agreements must be assessed *ex ante*, promoted, and measured *ex post*, in order to achieve the major social and environmental goals adopted by the international community: the fight against climate change, the preservation of biodiversity, employment, and social progress. In fact, such an approach would

19. Trade agreements of the 21st century are always “comprehensive” or “effective” partnerships. It is a matter of giving meaning to these terms.

20. Now becoming systematic in the declarations of international organizations on the economy, the notion of “inclusiveness” suggests growth policies that maximize the participation of players (employees, producers, consumers) in creating and sharing value. Specifically, non-employment growth cannot be considered inclusive.

exactly revert to the statutory objectives of the WTO, through clearly placing sustainable development as the number one principle, guiding all others. Some concrete examples are:

The environment pillar: How much additional greenhouse-gas emissions will be associated with the implementation of a liberalization program? What measures can be taken to prevent and compensate for damage? Of course, environmental impact studies have already been undertaken by the European Commission, but everybody knows that they have no credibility, beyond a few general assertions, nor are they accompanied by corrective policies “with teeth” (i.e. mobilizing the necessary regulatory and financial means). In this regard, a careful review of the current negotiating mandates should be undertaken.

The labor and social pillar: How can the economic benefits of trade liberalization be taxed and redistributed? Due to structural differences in competitiveness factors within Europe, the benefits of openness can only be distributed asymmetrically between its countries and regions that participate in trade. Therefore, it is really up to the European level to foster redistribution, or at least to compensate the “losers”, especially when it comes to displaced workers. It is widely acknowledged that the European “Globalization Adjustment Fund” came too late, to do too little – thus leaving EU member states on their own to face the forces of social disintegration unleashed by the European liberalizing trade policy itself. How can one be surprised that this policy has ended up generating so much nationalistic rejection? Of course, the biggest part of the answer lies individually with the member states’ competences. But European partners also need to tackle such challenges together. If the redistribution mechanisms are no longer working, or working less efficiently, it is because multinational companies have had an easy game with tax-avoidance strategies. The partnership agreements to be negotiated by the EU must deal with this problem as a “natural” side-effect of trade integration. Work is in progress within the OECD.²¹ Some economists, such as Lawrence Summers²² and Thomas Piketty have made interesting proposals. The French government has long been an advocate of Tobin-type taxes. The agreement negotiated by the EU must no longer function for the sole benefit of the “winners”, without doing anything to compensate the losers.²³

21. Fight against non-cooperative states, “Base Erosion and Profit Shifting” project.

22. L. Summers, “What’s Behind the Revolt Against Global Integration”, *Washington Post*, 10 April 2016.

23. Surprisingly, neo-liberal thinking, which has so far dominated European construction and its commercial policy, has always ignored or rejected this principle of compensating the losers. It is, however, an essential pillar of classical liberal thought, contained in the very definition of Pareto optimality that provides it with its anchor (Pareto optimality: the state of a society in which the well-being of an individual cannot be improved without diminishing that of another).

Beyond that, Europe must seek to project its values much more actively. True, it has already begun to include in international treaties provisions covering fundamental social rights and corporate social responsibility. Beyond this, it needs to develop ambitious cooperation programs aimed at the social “upgrading” of partners, whenever necessary – that is to say systematically when it comes to emerging partners.

The economic pillar: EU agreements should include concrete trade facilitation objectives for SMEs. Simplifying trade procedures and making them more transparent is a useful and necessary objective. But it is not enough if not supported by information and technical assistance programs for strengthening European SMEs, which are less equipped than larger enterprises to overcome obstacles to transactions.

However, this responsibility, yet again, comes under the individual initiative of member states. France could propose that national export and investment promotion agencies, such as Business France as well as its European counterparts, draw up a European agenda to strengthen support for these companies, thus enabling them to benefit from the negotiated agreements.

Second chapter: Rebalancing the standards and governing mechanism in partnership agreements. It is no longer acceptable to adopt, on the one hand, imperative legal provisions that benefit companies and market forces, while, on the other, granting only vague consultative rights to the social and political forces that represent the aspirations of citizens. Two concrete steps have to be taken to rebalance current agreements.

First: In all trade agreements negotiated by the European Union, the chapters relating to sustainable development must have the same binding force as the economic chapters, be subject to the same dispute settlement mechanism and to the possibility of economic sanctions being imposed on companies found responsible for violations (damages compensation, fines, restrictions on activity).

Second: If investor rights are to be directly actionable against states (an anti-democratic option by nature, which should be rejected, but is still accepted by the majority of EU member states), then the same rights and the same access to dispute settlement procedures against states and against enterprises should be open to all stakeholders of civil society. In fact, such a right already exists, at an embryonic stage, with the OECD “Guidelines of Responsible Business Conduct”. Complaints against

enterprises can be brought before a “National Contact Point” by trade unions, NGOs or ordinary citizens who think that these companies have likely violated their social, environmental or ethical obligations. Why not reinforce the operational strength of this right by fully integrating it into the arbitration mechanisms provided for by the European trade agreements?

Such bold steps are needed to “relegitimize” trade policy. “Sustainable trade”, having taken the place of “free trade”, and trade policy, having become “the politics of sustainable trade”, will win greater support from citizens. Europe will recover a capacity for political initiative, and claim back the “leadership” that it no longer has on a global scale at a moment when the United States of Donald Trump are threatening to abandon it in the short term.

A prerequisite: European affirmation

American withdrawal would leave a great vacuum. The main power, being in a position to weigh heavily (it can no longer impose) in the establishment of globalization rules, is tempted by the empty-chair policy. The European Union used to have a great partner with which to “globally” share values and objectives. But the Big American Brother, so comforting for many member states, is no more willing to play the game. The transatlantic gap has been widening.

A candidate for succession, China, has come forward. As a substitute to the TPP abandoned by the Americans, it proposes its own free-trade zone, the “Regional Comprehensive Economic Agreement” (RCEP) for the great East Asia, from Japan to India, through Australia. This means a TPP without the United States, without the social and environmental clauses, and without the rules, however incomplete, on state-owned enterprises of the current TPP version.²⁴ In Davos, Chinese President Xi Jinping turned into the spokesman of free-trade and free-investment consolidation, praising the merits of “economic globalization”.²⁵ It would not take much for him to claim the status of leader of a free-trade world.²⁶

24. It also has Eurasian ambitions through its “One Belt, One Road” policy, aimed at rebuilding a privileged commercial relationship by walking the broken roads of the ancient Silk Road.

25. The call for openness is limited to the economy: no open Internet, or free-flowing ideas.

26. Speech of 17 January 2017. Note that his intervention comes at a time when China is about to challenge before the WTO Dispute Settlement Body the fact that several WTO members (the United States and European Union) refuse to automatically grant China “market economy status”, citing the fact that this was provided for in its Protocol of Accession to the WTO, signed in December 2001.

Should we leave him the monopoly? There is an opportunity for Europe if it accepts filling the vacuum left by the USA. “Never waste a good crisis”, as they say in the business world. The time has come for Europe to emancipate and assert itself. Can it seize its opportunity?

The question calls for an institutional and political diagnosis. The European Union (EU) with 28 members (or 27 if the United Kingdom departs), plus five (the Belgian regions and linguistic communities) cannot achieve much. The mixed trade-competence regime gives each of the “thirty-three” a veto. Although many areas fall under Community competence, operating under the rules for qualified majority voting, other competences require the unanimity of the member states. The present system necessarily leads to paralysis. The uncertainties around ratification of the CETA have shown this.

The time has come to try to restore both the institutional effectiveness of the EU’s external action and its democratic legitimacy. This will, at least partially, require more integration and more European democracy – that is, more powers for the European Parliament.

Then comes the political question. Europe is unable today to take the initiative on a post-Trump-election international stage because its members do not share a common project and values. Can they once again come together, reconfirm the European project, and assert the values of democracy, sustainable development and social market economy? The forthcoming departure of the United Kingdom will allow more coherence. Some Europeans, with uncertain or questionable convictions, will surely remain in the EU. Yet, European benefits cannot come without adhering to common values. The EU should invite such Europeans to clarify their choices, and be prepared to circumvent them. A monetary and economic forum already exists: the Euro Zone. It is more compact (19 members) and, to a certain extent, politically more coherent. Political government of the Euro Zone, which many are calling for,²⁷ should have a full “globalization policy” dimension. The Euro Zone must become home to the European political will that has deserted the EU.

With the relegitimization of the two heads of state of France and Germany, 2017 offers a historic opportunity: that of constituting a hard core of the new European policy of sustainable trade, through a “merger contract” of the French and German trade policies, over the next five years.

27. D. Cohen, T. Piketty *et al.*, “Eurozone: Political Union Will Be our Strength”, March 2014, available at: <www.slate.fr>.

Politically, the Franco-German couple already converges more easily than in the past. France is less defensive on some trade subjects (agriculture). On the other hand, “anti-globalization” sensitivity has increased in public opinion and in some German political movements, as shown by the debates on the CETA and German reaction to some Chinese investments.

This “merger” would involve three moves:

- The adoption by both governments of a political package of common objectives and “red lines” for both countries: preservation of multilateralism, promotion of an open economy based on respect for the rule of law, on sustainable development principles, and on investment in public goods; recognition of the need for economic protection of citizens (active mobilization of anti-dumping instruments, control over strategic investments, compensation for social damage), “sensitive areas” to be preserved (standards, culture, environment, intellectual property, public services, etc), and red lines from each of the two partners (French agriculture, German federalism, opposing positions on nuclear energy, etc).
- The systematic formulation of common positions arising from the contract, in Brussels and international trade.
- The establishment of a Franco-German mechanism for light administrative co-ordination (such as the French General Secretariat for European Affairs) to ensure synthesis of the positions.

Lessons could be drawn by the two countries at the end of the political mandates. Such an initiative could lead to a renewed political drive for the Euro Zone, to reinvesting European trade policy with political meaning by strengthening intergovernmental coordination, and to relegitimizing the European Union in the eyes of citizens confused by globalization. In this way, Europe might recover strength and be able to maintain and even bolster the multilateral system that is threatened by American desertion.

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