

# European Union Trade Policy



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**Abstract** The process of economic integration at the European level began with the integration of the market of goods. Therefore, the EU's trade policy was the first genuine common policy. Even if it is still the most important global trading actor, the EU cannot ignore the transformations taking place within the multilateral trading system. The current context is marked by tensions between multilateralism and regionalism. This raises numerous challenges to the resilience of the global trading system. The present investigation is based on the hypothesis that the trade policy is still a major tool used to address these challenges. This chapter provides an examination of EU's trade policy emphasizing the actors involved, the challenges that the EU has to face, the tools that can be used and the specific responsibilities of the European integrationist group.

## The key points of the chapter are the following ones:

1. To discuss the rationales for a single community trade policy;
2. To explain to what extent EU have the chances of remaining a global trade actor;
3. To provide a presentation of the EU's placement with the big strategic dilemmas, namely: free trade versus protectionism; free trade versus fair trade; opening to the external environment versus inward looking attitude;
4. To analyze the instrumentation with which it operates in the European Union's trade policy equation;
5. To clarify the contribution of trade policy to implementing Europe 2020 Strategy goals.

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## 1 Introduction

The economic integration in Western Europe was meant to reduce as much as possible the disintegration process that had occurred in this part of the world following the Second World War. Following an integrative approach, the European decision-makers have firstly focused on the commercial dimension by launching a customs union with the stated intention to build a common market later. Within the entire economic integration process, the commercial integration was permanently at the confluence of the traditional-modern dichotomy. I will capture this aspect in the first part of this chapter.

The analysis begins by stressing the main reasons for which a single trade policy was necessary. There are increasingly more public statements expressing concern about the European Union's ability to maintain its position as a major global actor. This chapter supports the opinion that EU's success is mainly due to the actions of the member states and to the increasing role of the community institutional bodies. I argue that trade can be seen as "*opportunity for growth and new jobs creation*". Through my analysis, I intend to reveal the specific way in which the European Union places itself in the defining triangle of the relative positioning of any commercial entity, namely: multilateralism, regionalism, and unilateralism. I also point out that EU itself cannot remain out of debates on such defining topics as: free trade versus protectionism; free trade versus fair trade; opening to the external environment versus inward looking attitude. One of the conclusions is that, despite the fact that the relevant economic theory has argued for a free trade policy, economic reality prevailing at the European level shows that many arguments have been brought in favor of imposing protectionist measures. The present chapter shows that by adopting this attitude, different categories of economic actors can win, although it has been ignored the fact that end-users have important losses due to price increases of imported goods, diminishing their quality and narrowing the selection. The present analysis on the topic of trade policy is based on developments that have occurred in terms of trade since the beginning of the millennium. Among the most relevant analytical dimensions can be mentioned: *advance of globalization process which led to the emergence of international value chains; the emergence of new actors with international dimension that contribute at redefining the scale of competitive advantages; global economic developments that have transformed trade from part of the problem to part of a solution to the major challenges facing all stakeholders in the world economy.*

Having in mind that the institutional design of the European Union is very complex and unique compared to any other entity, I have noticed that in the process of managing the community trade policy, all unique integrative philosophies apply (i.e. intergovernmentalism, neo-functionalism, multi-level governance or consociationism). The integrative binder could be considered the principle of **subsidiarity** whose transposition in practice still raises many challenges. I analyzed here the tools with which it operates in the European Union's trade policy equation taking into consideration that on trade policy level. We have witness the transition

from a trade philosophy defined primarily through tariffs and quantitative restrictions to one in which measures “*behind the border*” can be found and has centered initially on commercial flows liberalization that subsequently advanced (after Nice Treaty on 2001) to services and trade aspects of intellectual property rights.

The methodological approach in this assessment aims at distinguishing between offensive and defensive commercial policy instruments. The aim of fulfilling the Europe 2020 Strategy requires the repositioning that involves: a more accurate application of multilateral rules of conduct; identification of most effective ways that support legitimate rights of European economic actors; more strictness of retaliatory measures at unfair trade practices; successful use of the mechanism of multilateral trade dispute settlement; offering best practices in the implementation of commitments; fight against protectionism. As the new economic reality demands, the main measures adopted should be focused on: switching from trade liberalization to support more stakeholders to benefit from this process; implementing effective measures to increase inclusiveness of economic growth; an increasing EU role in translating Development Agenda; reviewing Community schemes of nonreciprocal and nondiscriminatory preferences in the logic of a new GSP; greater transparency and legitimacy regarding correlation between trade and development; reviewing fundamentals in economic and trade partnership; taking greater account of social and environmental issues. It is recommended to promote a trade policy with a high degree of effectiveness.

## 2 European Trade Integration: Between Tradition and Modernity

The need of a single community trade policy has been fueled by the following reasons:

- *Requirements related to the achievement of the single internal market:* The lack of a common trade policy would encouraged the misappropriation of trade (European Community market penetration of imports by customs territory of the member state with the lowest barriers to product) for whose combat would have applied restrictive measures of intra-Community trade.
- *Increasing the role of European Economic Community (EEC) at international level in accordance with its economic dimension.* Uniform actions in relations with trading partners has allowed the EEC to benefit from the advantages from its very specific economic dimension.
- *Protecting the decision-making process regarding the influence of European interest groups favorable to protectionism.*

As shown in literature, *the common commercial policy is the core of foreign economic relations* (Smith 2007 pp. 226–235), governed by Article 113 (133) of Treaty of Rome. Some authors (Trebilcock and Howse 1999) find the idea that the current stage of European integrative architecture is due to liberalization of

economic flows, smart practicing of subsidiarity principle and offensive promotion of group interest at international level. Also in common trade policy, we find the same short, medium and long term objectives that all countries pursue, and what appears to be different is the manner in which the mix of trade policy is composed and the adopted measures are implemented. The common trade policy can be considered, especially in the current economic and political context, one of the most important Commission competence transposed through a kaleidoscope of committees subordinate to the Ministerial Council. Some experts (Pullmans and Beater 2006) argue that trade policy instruments target the following interest areas: “*the external implications of EU deepening and enlargement, the design of policies to stimulate trade and investment flows and the promotion of multilateralism mainly for the benefit of developing countries*”. Regional and global economic reality has shown that the trade policy objectives, especially those concerning the functioning of international trading system, can be achieved by two specific instrument categories. *Firstly, partnerships and agreements* concluded by the European Commission become relevant in the context of foreign policy, aimed at boosting intra-European trade and increasing the volume of cross-border trade. In the *second category*, the author (Smith 2007) includes *trade defense instruments* that counter unfair practices of third parties, as the procedures that govern trade disputes. EU objectives are well connected with the new international situation, where, although there has been registered significant progress regarding the quit of traditional trade measures, mitigation of non-tariff barriers, especially those arising from administrative formalities or from the application of other national public policies, become “...” (Trebilcock and Howse 1999, p. 135).

Rhetorically, it can make note that “*The EU’s foreign trade policy contributes to Europe’s competitiveness on foreign markets*” (Commission Communication 2006). Globalization made trade a main concern for the citizens. It has been understood that the economies open to external environment, and the range of the earning opportunities multiply if the economic actors are able to face new operational challenges competitiveness and operates with uniform and good faith rules.

## ***2.1 European Union as One of the Main Trading Actors at International Level***

EU is the second trade actor regarding the exports, as the imports of good, remaining well integrated globally. The EU success is mainly due to actions of the member states and to the increasing role of the community entities, given that international trade can be seen only as “*opportunities for growth and new jobs creation*” (European Commission 2016). Although the integration process has been launched in liberalized market logic, it became quickly obvious that policymakers have placed the common trade policy on the neo-protectionism logic. According to

Jovanović (2015), EU decided to join this trend, as multilateral commercial conduct does not allow the unilateral use of traditional trade instruments when pressures from interest groups exist at national and regional level that want to obtain a series of “*short-term political benefits to the detriment of economic gains over a longer period*”. It can be argued that, despite the favourable opinions regarding the free trade policy, in the recent years EU has become a protectionist commercial actor at the global level, especially in the trade in goods intensive in human resource. Another analyst (Molle 2006) emphasizes that producers’ requests in the region were often reflected in trade policies adopted at European level, especially because “*the positive effects of the liberalization of goods and services flows are diffuse, less visible and consequently difficult to quantify*”.

Some authors (Bhagwati and Hudec 1996, p. 135) revealed that, although multilateral trade negotiations seem to have led to a significant decrease of tariffs and effect of other measures applied at the border, a favourable framework has been created for implementing new measures that restrict trade. State involvement under the pretext of protecting citizens, “*taking into account that differences between countries regarding specific legislation, can be used to promote national industries*” (Rugman et al. 1997). Thus, in the last decade, regulations regarding health, security and consumer or environment protection have increased in importance, especially in developed countries members of EU. Starting from that there are analysts who appreciate that there are enough signals that in recent years a part of the European Union’s trade policy has become pronounced neo-protectionist. On the other hand, other analysts support the contrary. Standing between the two extremes, Alasdair R. Young (2004), consider that “*the European Union’s role in international trade contains two significant contradictions: first, although its trade policy, with some notable exceptions, is generally fairly liberal, it has been the respondent in a number of high-profile trade disputes; second, although a champion of multilateralism, the EU has had problems complying with World Trade Organization (WTO) judgments*”. I do believe that, given the complexity of the current international commercial landscape, it is all the more difficult to position ourselves on either side. The constant position of the European Union on the part of the group of commercial actors that still believe in the values of the commercial multilateralism cannot be disputed. In addition to a new public model attitude where as the power of a sector is higher, the more protection it will receive in exchange for votes by politicians, a robust direct correlation can be referred to between the number of employees in a sector and the extent and effectiveness of non-tariff measures applied to protect that sector. Both academic analyst and policy makers in public policy (those from Europe and other countries participating in the international trade system) shows their concern regarding the situation of trade liberalization because non-tariff barriers have been less malleable in terms of reducing them through international negotiations. European Union is a good example for the truth that, despite some attempts to fully liberalize trade, the elimination of non-tariff barriers is at the beginning, further negotiations in this area at the multilateral level being necessary.

## 2.2 *Triangular Size of Community Trade Policy*

European Union trade policy need to be analysed alongside the well-known standard dimensions, as all references to international trade environment ([Política privind comerțul și dezvoltarea, Institutul European din România 2005](#), p. 6):

**Multilateral Dimension** This type of traditional trade philosophy is primarily exerted within institutions defined by General Agreement of Tariffs and Trade (GATT) and, since 1996, by World Trade Organization (WTO). I need to stress the fact that, since the beginning, EU member countries has played a central role in developing the international trading system. Relatively similarity can be identified between the determination for commercial liberalization that can be identified both in the GATT text and in the Treaty of Rome establishing the European Economic Community (EEC). The EU single market was inspired by principles and practices of the international trade system. EEC has always been among the most proactive promoters of effective international trade based on the rule of law.

Multilateralism represents for EU decades of multilateral trade negotiations, hundred agreements or codes of conduct, impressive levels of decreasing in customs duties or mitigation of quantitative restrictions on imports, the promise of amicable settlement of commercial disputes, and the setting up an effective monitoring trade policies mechanism. EU member states have been, at the beginning, the promoters of fundamental principles for international trade such as: *non-discrimination, transparency, equity and fairness*.

It can be said that the position the EU has adopted since the time when the US authorities launched the concept of competitive liberalization is quite interesting. Some analysts argue that the EU's reluctance to the US proposal in 1982 to launch a new round of multilateral trade negotiations has led to the shift of Americans' interest in the values of regionalism, which led to the establishing of Nord American Free Trade Area (NAFTA) and Asia Pacific Economic Cooperation (APEC). Moreover, the European Union frequently seems to focus so heavily on its regional agenda that it forgets its global responsibilities. Bergsten (1996) pointed out that "*Paradoxically, the strongest pressures to reverse the liberal course can be found in the entities that created, nurtured, and championed the postwar order: the United States and the European Union*". Even though throughout the post-war period, in the EU trade policy equation, one can find almost equal determination for trade liberalization and the protection of the single internal market, we do not believe that the EU has been a brake on the process of advancing the multilateral direction of global trade but a promoter of it. The biggest challenge to the common trade policy was represented by the fact that, since the 1990s, European decision-makers have been increasingly concerned about the external dimension of competitiveness. As Commissioner Mendelson pointed out in October 2006 "*For me this means setting out a clear programme of measures to maximize the competitiveness of European companies when they trade*". In other words, this means rejection of protectionism at home and activism in opening markets abroad. It can be said that

this was the European version of what the Americans called the new dynamic reciprocity.

At EU decision-makers level has become clearer that the focus has changed from traditional measures in trade borders of countries to macroeconomic and sectoral national policies that by their content and implementation can create trade barriers as effective as traditional ones. Integrated Europe contributed to the shift to more comprehensive approach of international trade, concerns being focused (promising intent, but modest results) on sensitive sectors such as: *trade in agricultural products, trade in services, trade-related aspects of intellectual property rights and investment processes; relationship between trade and environmental aspects; specific competitive behaviour of public authorities or private actors*. EU is among the global economic actors who want to attack the so-called “*specific problems of the 21st century*” such as: *investments; competition policy; government procurement; food security; export duties; climate change; underevaluation of exchange rates*.

The EU member countries contributed fully to setting up a regulatory landscape for liberalize cross-border trade flows and begin a new process of global economic governance. The role of EU during the multilateral negotiations rounds could be considered in a way contradictory. On the one hand, based on neoliberal values promoted in the postwar period by countries from the group, it has contributed to progress in trade liberalization and offer best practices that could be taken as a model by other states. On the other hand, due to the rigidity of some EU sectoral policies (especially the agricultural or competition policy), development of trade conduct and liberalization has been delayed for decades.

**Bilateral and Plurilateral Dimension** It is that component of community trade landscape reflected by negotiated and concluded agreements by EU outside the WTO multilateral negotiations and by specific measures on the relationship with countries or regional economic groups. At the level of community bodies, it is considered that bilateral partnerships with the most important trade actors is the way that ensure more trade openness ([European Commission document, MEMO/13/1080, 3 December 2013](#)). At the end of 2014, EU notified WTO executive bodies the existence of 37 regional agreements ([WTO online information, “RTA Database”](#)). In 2013 the first inter-regional agreement between EU and countries from Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama) come into force based on three operational pillars—politic dialogue, cooperation and trade agreement (tariff concessions, facilities for trade in services, sanitary and phytosanitary measures, government procurement, protection of intellectual property rights) ([European Commission online information, “EU-Central America association agreement”](#)). In this landscape, there are: (a) *free trade agreements* with members countries of European Free Trade Association (EFTA), with Mexico and South Africa; (b) *setting up agreements similar to customs union* with Turkey, Andorra and San Marino; (c) *new type agreements (association agreements or partnership and cooperation agreements)* concluded in the early 90s with Central and Eastern countries. Such agreements have prepared the way for many countries, not only in trade, to become in 2004, 2007 and 2013 EU members. Only in the last 3 years, the EU concluded negotiations with Canada (on September

2014); Ecuador (on July 2014) and Singapore (on October 2014) and Japan (in 2017). Trade negotiations with Morocco and Thailand (started on March 2013) and USA (started on July 2013) are in different phases. EU continues negotiations regarding free trade agreements with India, Malaysia MERCOSUR and Vietnam.

**Unilateral Dimension** This redefined facet of reporting to international partnership has as a relational pillar the adoption and implementation of unilateral measures by European Union as further tools of trade policy in order to ensure development and/or political stability according to political priorities of the group. The most commonly form used for implementing this type of measures is trade concessions to third countries by EU based on economic interest for accelerating trade in a particular region and capitalization of relevant new competitive advantages identified on this axis. With their specific novel, preferential schemes offered unilaterally by the EU developing countries enroll in this plan. The following are relevant as partnership:

- *Economic Partnership Agreement negotiated with countries from Africa, Caribbean Basin and Pacific Area (Cotonou Partnership)* signed on February 2000. This new type of partnership on North-South axis is an updated form of traditional *Conventions from Yaoundé and Lomé* that set, as a derogation from the rules of multilateral conduct, the partnership between EU member states and the former colonies (known as ACP). Unilateral preferential trade regime refers to all industrial products and the most part of agricultural products. In fact, ACP countries benefit from the most liberal rules in order to fully benefit from the trade facilitation;
- *Mediterranean agreements* concluded successively, with Algeria, Egypt, Israel, Lebanon, Morocco, Palestine Liberalization Organization and Tunisia. The main objective of this trade agreement is to create a deep free trade area in Mediterranean basin on the path of trade liberalization between EU and countries from the region, but also of trade between them.
- *Community schemes of customs preferences, non-reciprocal and nondiscriminatory* applied by EU under the Generalized System of Preferences (GSP), on the relation with developing countries and eligible for this treatment. In this logic of partnership (a new edition started on 1st January 2014) it is allowed to export from EU in conditions close to free trade, most of the manufactured products and some processed agricultural products. Based on the graduation principle, the number of beneficiary countries under the EU preference scheme fell from 178, in the previous edition, to 92, the process of decreasing the number of beneficiaries continuing in the near future.
- *“Everything but arms”*. This unilateral preferential scheme from which benefit 49 countries is operational for the relation with less developed countries that comply with international agreements concerning environmental protection and prohibition of certain behavior considered unethical (for example: child labor or forced labor practice). Under this trade agreement, free access is granted for unlimited period, for exported products, excepted arms and ammunition.



- According to the goal of achieving an “Extended Europe” asymmetric preference is given in order to ensure peace, stability, freedom and prosperity in the region.
- It also can be mentioned *Autonomous Trade Measures* that apply since 2000 in relation with 6 Balkan countries (revised in 2005, 2011 and 2016) ([European Commission online information, “Autonomous trade measures”](#)). EU signed in 2014 a *Deep and Comprehensive Free Trade Area* (DCFTA) agreement—after already signing an Association Agreement on closer political ties with Ukraine. On 27 June 2014 the EU signed Association Agreements with Georgia and the Republic of Moldova and complete the signature process with Ukraine, each providing for a Deep and Comprehensive Free Trade Area. Unilateral preferences were granted to Moldova since 2008 and Ukraine (since 2014).

### ***2.3 Some Reasons of Switching from Trade Liberalization to Practicing Protectionism***

As some analysts pointed out, “*Despite its institutional prominence and empirical relevance, EU trade policy attracts comparatively little scholarly attention*” EU trade policy literature remaining “*underdeveloped, both theoretically and empirically*” (Duur 2007). Despite the fact that the relevant economic theory has argued for a free trade policy, economic reality prevailing at the European level shows that many arguments have been brought in favor of imposing protectionist measures. The main reasons for restrictive trade measures have been protecting domestic producers from competition of foreign firms, so obtaining additional budgetary revenues. It is considered that by adopting this attitude, the two categories of economic actors (corporate environment and public authorities) can win, although it has been ignored the fact that end-users have important losses due to price increases of imported goods, diminishing their quality and narrowing the selection. Empirically, the level at which earnings as a result of imposing tariff or non-tariff trade barriers exceed losses, depends on “*the size of the customs duty, the importance of the goods to domestic consumers or the number of jobs saved*” (Hill 2005, p. 181).

**Economic Arguments** Bringing to the fore the economic arguments to justify protectionist measures has been driven by completing and redefining theories related to trade with foreign countries and the emergence of what many authors have called strategic trade policy. New evolution of economic theory and practice made possible the reduction of the relevance of traditional explanations (infant industries argument, stringency justification for the country’s defense strategy, defense jobs etc.) and new reasons for trade policies gain relevance (e.g. strategic trade policy). As a rule, in supporting the arguments related to strategic trade policy, it can be considered the effects generated by economies of scale, with the existence of a limited number of companies in the global market. As an example for

the new type of argument it can be mentioned the decision of some EU member states regulatory and actional supported by some specialized trade organizations, to support Airbus (having as stakeholders the governments of UK, Germany, France and Spain) to become a European champion able to play successfully in transatlantic competition. Thus, the economic arguments are often on the base of government intervention at the European level, especially that the global market is dominated by foreign companies that have the advantage of the “first mover”. By granting export subsidies and limiting access of foreign competitors in the local market, public authorities help significantly to the success of domestic companies at international level.

**Non-economic Arguments** Lately, the imposing of neo-protectionism can be justified by the desire of protecting national and cultural traditions, such as countries like Poland, where pheasants’ farms exist or Germany, country with a long tradition in beer making. However, protecting traditional symbols within the EU member states contribute to maintaining sales prices quite high and limiting the efficiency and effectiveness with which some companies can operate. In this context, it becomes obvious that the recommended solution for the European companies should be structural adjustment and upgrading, not seeking support from public authorities to artificially maintain a competitiveness already lost. Once with the increasing civic militancy of the planet’s inhabitant the ethical dimension of international trade is becoming more relevant, and covers both visible features of a good, and production practices. In the category of non-economic arguments, the most convincing is the consumers’ protection. For example, at EU level the import of US beef has been restricted, considered to be treated with growth hormones. Hill (2005, p. 189) considered that this measure is inconsistent with multilateral trade conduct, because there was no evidence confirming that such meat should affect the citizens’ health. With the adoption of *Codex Alimentarius* establishing that such meat is not dangerous, USA called for lifting the restrictions, but it has been hit by the refusal of the EU, that insisted with protecting the consumers.

According to changes that have occurred in terms of geographical chart of international trade, new economic actors have appeared in the current trade area, especially developing countries. So, EUs decision makers started to adopt regulations to address concerns about food safety, environment and animal welfare. According to some experts from World Bank (2012), a number of neo-protectionist measures, such as technical regulations or quality standards have an important impact on business, generating a decrease in the competitiveness of foreign products. This is due mainly to additional costs, determined by the need of “*adapting the commodities to the specific standards and regulations of the importing country and the conformity assessment procedures of the products*”. Increasing concern of European citizens regarding the goods offered on the market, especially food, obliged governments to find the best way to combine policies that respond to their requests with measures regarding the achievement of economic objectives. Some analysts (Tothova 2009) suggest that the incompatibility between policies that meet the concerns of citizens

and trade obligations undertaken is most commonly encountered when fears refers at “*an aspect of the production process that is not embedded in the good, or the researchers have distinct visions, and society as a whole exhibits different levels of risk aversion*” (Idem, p 6). It is often possible to implement market-based solutions that “*fulfill the personal freedom of consumers*”, for example by supporting education programs for citizens or correct food labeling. The authorities can also appeal to a direct intervention to prevent the introduction of consumer products with a questionable safety. The adoption of regulation designed to protect consumer health and safety has led to an increasing number of trade disputes. The regulations in areas of activity that appear national, such as food inspection or product labeling have a direct impact on trade in goods, affecting both importing countries and exporting ones (Trebilcock and Howse 1999). At European level, labeling is a sensitive topic, even if the goods are subject to intracommunity trade, companies being forced to comply with current standards, so products must be labeled with the common name of the product. However, this is reflected in trade between USA and EU, especially genetically modified products. Thus, the European market is still restrictive regarding the import of such goods, imposing discriminatory labeling schemes, despite the development of biotech industry.

### **3 Regulatory and Institutional Framework of EU Trade Policy**

The present analysis on the topic of trade policy was based on developments that have occurred in terms of trade at the beginning of the millennium. Among the most relevant analytical drivers must be placed: *advance of globalization process which led to the emergence of international value chains; the emergence of new actors with international dimension that contribute at redefining the scale of competitive advantages; global economic developments that have transformed trade from part of the problem to part of a solution to the major challenges facing all stakeholders in the world economy*. The way in which act such an atypical economic actor (European Union which is not a traditional state but no specific international organization), and ensure implementation of multilevel governance (with the corollary principle of subsidiarity) is very interesting. Trade policy contains trade in goods and services, trade-related aspects of intellectual property rights and foreign direct investments and trade protection measures. In these areas, EU member states act only if and to the extent of authorization by decision-making bodies. There are several areas with shared competences. It is about the consumer protection, logistical or environmental issues. In these sectors member states still maintain some self-regulatory skills exercised in accordance with guidelines adopted at Community level. But these measures adopted at national level must not affect intra-group trade or with third parties. Common trade policy tool is decided and applied under two-tier regulatory: *primary legislation*—treaties and other agreements of similar statute; *secondary legislation*—regulations; directives, decisions and

recommendations and opinions. EU cross-border trade are considered “*powerful growth drivers and job creation*” (European Commission documents COM 2010). The common trade policy is a set of measures, tools, policies in the foreign trade of the European Union and has as the main objectives the following: *boosting EU exports of goods and services by determining actors to penetrate many foreign markets; ensuring protection for European industry of goods and services, especially through measures against unfair competition caused by certain imports from third countries; combating all forms of discrimination or denial community goods and services access on third markets; providing a legal and institutional framework favorable to foreign direct investments, with adequate protection of investors and investments; supporting European interests in international organizations; boosting trade integration of many countries in regional and international redefined landscape.*

### **3.1 Institutional Dimension of Common Trade Policy**

Institutional design of this challenging component of this integrative landscape is very complex and unique compared to any other state entity. In the process of managing the community trade policy, all unique integrative philosophies apply (intergovernmentalism, neo-functionalism, multi-level governance or consociationism). The integrative binder could be considered the principle of *subsidiarity* whose transposition in practice still raises many problems. Community institutions responsible with developing and implementing trade policy are:

- *European Parliament.* For a long time this body defining democracy and transparency of sectoral policies applied at European level has a less visible role, its role remaining as an advisor of compliance. Treaty of Lisbon gives the European Parliament a greater role, giving decision full rights in trade policy. Compared to the previous situation, when only Ministerial Council was responsible for the adoption of trade legislation, and Parliament was consulted and involved in ratification of trade agreements only in some limited major cases, now the European Parliament decides the strategic axis of EU trade policy according to the *ordinary legislative procedure*. When adopting international agreements, Parliament gives its notice before they are ratified by the Council. European Parliament ratifies trade agreements with a simple majority of its members. It can be added the role of political control exercised by the Parliament on the way that other bodies have acted, at European or international level to implement trade policy instruments.
- *Ministerial Council of the European Union*—is the main decision-making body in trade policy, which adopt decisions by qualified majority procedure. Ministerial Council decides the strategic axis of EU trade policy with the European Parliament and adopts international agreements concluded by EU. Unanimity is required in order to ratify the agreements that have as object trade in services, trade aspects of intellectual property rights or direct investments.

- *European Commission*—is the founder of the common trade policy and the main partnership instruments negotiator at bilateral, regional and multilateral levels. The Commission implement trade policy by calling to *acts of delegation* and *implementing acts*. Negotiations are under a mandate which the Commission receives from member states by the Council decision. Commission can obtain from the Community legislative level the ability to adopt legal acts that have no law level able to implement the legislation. The objectives of this delegation and the content, desires and time involved are presented in the document which made this delegation. Delegation is conditioned by meeting certain specific requirements and can be revoked in certain circumstances by Parliament and Council. These committees are composed of representatives of Member States and assist the Commission in the implementation of trade policy tools.
- *Advisory committees*. They represent tools by which member states exercise control over how to develop and implement this sectoral policy. The process was established by the term “*comitology*”. These committees are composed of representatives from member states and provide specialized assistance in the implementation of trade policy instruments. Trade Policy Committee has an important role. Its main function is to coordinate EU trade policy and here the whole issue of trade policy is discussed, from strategic problems of WTO negotiation rounds to specific problems exports. Within this Committee, Commission provides support from all EU member states on all trade policy issues.

Community regulatory and institutional framework is constantly evolving, this high dynamic being the result of a strategic *positive sum game* involving a variety of state and non-state actors. On February 2014 came into force two new community regulators (Trade Omnibus Regulations) which encodes regulatory framework relating to external trade policy. Member states have also certain limited responsibilities in services and intellectual property. Documents that implement EU trade policy are:

- regulations with general application, binding and directly applicable in Member States (*regulations*),
- *directives* that must be transposed into national law and practice of member states,
- *binding decisions*,
- *decisions of general application*,
- *recommendations* and
- *opinions* which are not binding (Botez and Aldea 2005).

Decisions on common trade policy based on European Commission proposals, must be accompanied by notice “133 Committee article”, committee of responsible policy of member states whose work is reflected in Commission proposals or documents on international trade negotiations, reports on negotiations, trade disputes and some commercial issues facing EU member states. The final decision is adopted by the Council and/or European Parliament and involve the Court of

Auditors and financial and consultative EU bodies (depending on the type of act and issue).

### 3.2 *The Main Instruments of EU Trade Policy*

On trade policy level one can notice the transition from a trade philosophy defined primarily through tariffs and quantitative restrictions to one which measures *behind the border* can be found and that has centered initially on commercial flows liberalization and has advanced (after Nice Treaty on 2001) to services and trade aspects of intellectual property rights.

**Customs Policy of the European Union** Since 1968 (when it was adopted by harmonizing member states national customs tariffs), Common Customs Tariff has remained the traditional tool of the EU's common trade policy. For implementing common trade policy (main driver for integration of good markets) it was established that any good imported from outside the EU to be charged only once when entering the territory of one member state. The Common Customs Tariff have several types of taxes (Prisecaru 2004, p. 141): *ad valorem taxes* on industrial products and *specific taxes* on several categories of agricultural products. Given the complexity of the partnership developed by the EU, a series of exceptions are provided regarding high tariffs on agricultural products and some industrial products sensitive to foreign competition and many headings which are not charged import taxes. EU does not apply export or transit taxes, but *escalating tariff* (increasing custom tax with increasing degree of product processing) for certain products (textiles, rubber, tobacco and specific products etc.) is more frequently. The latest version of Community Customs Code entered into force on October 2013, most of its provisions being applied from May 1, 2016, after delegation and implementation acts have been applied. This process is one in which „*the design of the business framework is developed in accordance with the provisions of Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) with the appropriate involvement of the Member States and the business community*” (Regulation (EU) No. 952/2013 of the European Parliament and of the Council, 9 October 2013).

According to EU legislation, “*customs procedures*” refer to *release, transit, customs custody, processing under customs control, temporary admission, active processing suspension, passive processing suspension, exports*. It is mandatory the registration at the customs authorities of member states of all economic actors that operate within the common customs involved in activities covered by customs legislation and those parties which carry at least one activity referred to in Art. 4 (3) of the Regulation concerning the implementation of Customs Code. Specialized national authorities of those economic actors give a unique registration and identification number (*Economic Operator Registration and Identification Number (EORI)*) recognized at Community level.

The companies involved in commercial transactions or their representatives from EU can submit customs declarations electronically or factual in any member state. Persons not resident in EU can submit customs declarations for transit or temporary admission. Statistics show that in recent years, 98% of customs declarations are submitted online. EU answer to international efforts to simplify and standardize customs procedures and practices in recent years has encouraged customs declaration of goods before their arrival at destination. If customs procedures involve more than one customs authority from EU, one license for a customs procedure will be granted. EU continues to successfully implement electronic customs initiative in order to improve the efficiency of customs procedures and to facilitate trade ([European Commission online information, “the EU Customs Union”](#)). Member states can provide the status of *authorized economic operator* (AEO) with respect to a set of common criteria. Based on this criteria there are the following types of certificates: AEO-C (AEO Certificate—Customs simplifications); AEO-S (AEO Certificate—Security and safety); and AEO-F (AEO certificate—Full). Participation in the program is voluntary and is open to all economic resident actors in EU. Non-economic resident actors can also apply, actors that have created subsidiaries in countries dealing with activities related to customs procedures. EU has signed agreements of mutual recognition of authorized economic operator status with more countries: Switzerland (July 2009); Norway (September 2009); Japan (October 2010), Andorra (January 2011), USA (June 2012); China (May 2014). EU has taken in its customs code provisions of the WTO Agreement on customs evaluation of goods.<sup>1</sup> Customs value is determined by transaction value (CIF price of imported goods).

EU uses *non-preferential rules of origin* and *preferential rules of origin*. Non-preferential rules of origin have as a purpose the implementation of retaliation measures (anti-dumping and countervailing), of quantitative restrictions, quotas for imports under the most favored nation clause or other measures to control imports adopted in accordance with multilateral trade conduct. The rule of thumb used to define the origin of products which have undergone transformation on several customs territories is that of “*the last relevant transformation that is economically justified*”. Preferential rules of origin are applicable in relation to transactions subject to preferential trade agreements, reciprocal or non-reciprocal ([European Commission online information, “DG TAXUD: Arrangements list”](#)). The type of rule of origin is different from one trade agreement to another, but general rules applicable in almost all cases still exist. The Commission will consider the decision to extend practices connected with community scheme of preferences and other preferential arrangements. In both cases, the origin is determined by the increase in value-added or tariff jump method.

All tariff lines from Common Customs Tariff are consolidated. Taxes are applied at level that were consolidated, leading to a simple tariff average of

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<sup>1</sup>Provisions of the WTO Agreement profile can be found in Art. 28 to 36 of the Community Customs Code and the provisions on its implementation—Art. 141 to 181 and in annexes 23 to 29.



6.5%. Community tariff landscape can be seen as stable. Changes produced are caused by changing tariff codes or international prices for certain goods. Tariff nomenclature (Combined Nomenclature) is based on *Harmonized Commodity Description and Coding System* and described at 8 digit code. In the latest TARIC version (2014) we can find 9379 tariff lines, of which over 25% are exempted of import duties. In the common customs tariff there are *tariff picks* to products sensitive to competition (22% for cars or 26% for fish products) and quotas are applied on the basis of various preferential agreements conducted by community bodies. In order to benefit from exemptions or reduce taxes any economic actor should apply to national authorities. These facilities are reviewed and approved by the Commission and are applied on “*first come, first served*”. In recent years, the average tariff has steadily decreased, and the most important falls have been recorded for agricultural goods. Despite import duties, the only para barriers we can find in EU practice are *excise and value added tax (VAT)*. As a matter of transparency rules, an *online database* operates where we can find information regarding the level of customs duties, quantitative restrictions, measures to control imports and exports.

**Non-tariff Protection Instruments** As the level and effectiveness of protectionism of trade barriers have reduced, based on a so-called “*law of constant protection*”, non-tariff barriers have been used, especially *quantitative restrictions*. These forms of protection (especially import quotas) have been managed for a long time at national level, but since 1994 have been established and managed at EU level. Using quantitative restrictions has been in serious decline as EU implemented multilateral agreements and plurilateral codes of conduct. After completion of the Uruguay Round and starting the process of implementing commitments at multilateral level, we can speak about the elimination of quantitative restrictions applied in the EU and reduction of the effects on relationship with third parties. As a rule, EU does not apply any quantitative restrictions on imports from WTO member states and states that have negotiated bilateral trade agreements. The single restrictive measures are applied only for reasons for security or environmental protection. Restricting certain imports can be made for the implementation of international conventions where EU participates. This is the case of *Vienna Convention on the protection of the Ozone Layer* or of the *Montreal Protocol on substances that contribute to ozone depletion*. As a principle, imports of these products are prohibited, but certain exceptions are provided, when the management process is based on *import licenses* granted to Commission [[Regulation \(EC\) No. 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer \(OJ L 286, 31.10.2009\)](#)]. Another case of restricted imports for ecologic reason is represented by the measures taken to implement provisions of the *International Convention related to trade in species of flora and fauna endangered*. EU takes part with other states of “*Forest Law Enforcement Governance and Trade Voluntary Partnership Agreements*”, which makes that imports of certain species of wood or wood products to be controlled by applying licensing procedures. Licensing procedure applies according to *Kimberley Process*



*Certification Scheme on Rough Diamonds* where EU takes part of. Import licenses can be obtained from the six “*Union Authorities*” with headquarters in Anvers, London, Idar-Oberstein, Prague, Bucharest and Sofia. Amid the emergence of neo-protectionism in Europe, (Roarty, 1996) brings to the fore the complex effects of a series of measures still listed in the gray area of protectionism, such as voluntary export restrictions. These measures considered to be “*market sharing arrangements*” are frequently found in economic policies equation applicable at European level. The author suggests that trade policy is “*complementary to the industrial one*”, regarding the fact that in the last century voluntary export restrictions (VER) were imposed to protect high intensive technology industries, due to proliferation of strategic trade policy argument. In the same perspective, EU is responsible for escalating the proliferation of VERs that distorted significantly international trade affecting particular economic interest of developing countries, being required to comply with commitments aimed at restricting exports of products “*sensitive*” on the European market.

Since 1990, given protection has been used more, especially to the implementation of retaliatory measures to trade practices considered unfair. Trade policy instruments currently used by European Union can be divided into: *defensive and offensive tools*. Defensive tools are adopted arguing that can contribute to the development of fairer trade and protection of interests of various components of European society. It supposes that this type of trade instruments is compatible with the requirements of commercial conduct adopted at multilateral level. As its results from the literature review in the field, the main defensive instruments are (Politica privind comerțul și dezvoltarea, Institutul European din România 2005, p. 7):

- *Anti-dumping measures*, whose role is to counteract dumping, considered the most common way to distortion correct competition;
- *Countervailing measures* adopted for situations where it is presumed and proved that domestic support or export subsidies of certain products was used, thus ensuring a more unsustainable external product competitiveness;
- *Safeguard measures*, adopted under Art. 19 of GATT and, after completion of the Uruguay Round, in accordance with the provisions of the Agreement on Safeguards. In certain situation (but quite volatile) temporarily restricted imports of a product is used if it is estimated that domestic production of that product is seriously affected or threatened to record significant damage due to increase of imports. After 2005 EU does not apply any kind of safeguard.

Regulatory framework related to this part of the common commercial policy consist of: *Basic Anti-dumping Regulation, Anti-subsidy Regulation and Regulation no. 260/2009 and 625/2009 on Safeguards*. We currently assist a process of reviewing this regulatory framework, aiming at increasing transparency of investigations, a better definition of the dumping margin and the level of subsidy, clarify the concept of third representative market and measures that can be taken following the period of application of the restrictive measure. Despite stricter provisions regarding procedures that initiate and conduct investigations to prove dumping, European countries continue to implement them, although, theoretically, these

actions must be filed only if foreign producers are suspected that sell their goods at a price below the normal value, so they discriminate by price.

WTO statistics show that in 2015, 108 anti-dumping measures were in force, brought by European institutions, significantly more than 12 countervailing ones, or safeguard measures, which did not exist at all. Dumping accusation concern a very wide range of products and are directed to suppliers from emerging economies. Although they are adopted in order to countering unfair commercial practices, anti-dumping measures are often based on pressures from some relevant actors of the internal market. Some analysts revealed that European countries use antidumping during downward phase of the business cycle, when companies are making significant efforts to get protection from their foreign competitors. Thus, once economic growth is slow, local companies perceive income from investing resources in searching protection as larger compared to those from the development of productive activities. We can say that the anti-dumping legislation take into account the political dimension, instead of the economic one, since these trade defense instruments “*go beyond the framework of punishing unfair practices and ensuring an environment competition*”, being implemented in order to protect European industries.

Some analysts (Vandenbussche et al. 2001) consider that antidumping measures, implemented within the EU to protect fair competition represent “*instruments of industrial policy*”. The authors suggest that greater bargaining power of European trade unions favor authorities to intervene in trade and degree of stringency of anti-dumping measures. Therefore, if unions have a reduced bargaining power, policy makers will focus on imposing price commitments and while increasing their influence, they decide to adopt anti-dumping duties that the whole group will benefit from. The same analysts have shown that both companies and the whole European integrative architecture will benefit from imposing anti-dumping taxes and price commitments. Dumping measures are for other analyst (Kerr 2006) “*a major weapon in the protectionist arsenal*”. Author has shown by an empirical study that “*incorrect*” practices gives undeserved legitimacy to protectionist policy. Thus, companies that seek to gain profit by implementing legal action can be unfairly accused, creating the false impression that they are engaged in unfair pricing practices that will affect indigenous companies. In another context, competition policy in most developed countries does not include as unfair practices price discrimination or selling bellow production costs. For example, price discrimination is applied in EU member states as discounts offered to students or loyal customers, lower prices of tickets purchased in advance, or goods sold in particular period of the year in physical or virtual stores. Thus, we can say that price discrimination is often accepted, without being obstructed by the intervention of authorities in order to protect competition in the unified market.

Charges of companies or group of companies to foreign competitors or the opportunity to adopt safeguard measures are investigated by European Commission which decides whether there is unfair incriminated practice and proposes retaliation measures. The implementation of retaliatory measures on a country or a company as the magnitude of the proposed measures must be approved by the Ministerial

Council (Silaşi et al. 2005). Safeguard measures initiated by the EU target certain products sensitive to competition, especially textiles and clothing, steel products and automobiles. A mechanism similar to that applicable to dumping applies to *counter export subsidies*. International rules on subsidies have been significantly strengthened with the entry into force of the WTO Agreement on Subsidies and Countervailing Measures on January 1, 1995. The EU regulation on protection against subsidized imports entered into force on same date and refers only to imports from outside EU, making possible to impose the countervailing measures for subsidized goods whose import causes or threatens to cause injury to domestic producers of substitutes. The following conditions must be met in order to apply countervailing measures:

- The subsidy must be specific, export one or be granted to a single company, industry or group of companies;
- To be a material injury to the industry from Union, reducing the market share of domestic producers, reducing prices etc.;
- Affecting Community interests, costs resulting from the application of these measures should not be disproportionate to the expected benefits.

Products that have been implemented compensatory measures were of high technology from Japan and some newly industrialized countries or any product coming from countries with low labor costs. The first application of this type of action can be found after 1976, the first case being that of sanctioning a bicycle chains import from Taiwan. In this case, the European Commission is leading the investigation and implement interim measures, the final decision belonging to Council. Article no. XIX of GATT allowed imposing a series of restrictions if imports from certain sources cause or threaten to cause serious harm to domestic producers. This article allowed the use of some non-tariff barriers and as exceptions the implementation of some tariff measures. Typically, the tools used are quantitative restrictions, as voluntary export restrictions or import licenses. The most common situations where such restrictions apply are related to trade in products sensitive to competition, such as textiles and steel products. European Union actively uses these trade defense instruments as an effective mean of protection against unfair imports from outside the Union. European Union had imposed 135 anti-dumping measures, 12 anti-subsidy measures and other 91 investigations were ongoing by the end of 2005. However, undertakings apply for 19 products from 15 countries. The main reason of the offensive instruments is related to boosting the process of market opening and liberalization of trade. The main offensive instruments are (Idem):

- *Trade barriers regulation*. This is an element of the *acquis* under which economic actors from EU can ask community institutional bodies to take measures if they consider that exports face trade barriers punishable by multilateral conduct on external markets. These rules can be used to decide if these practices have negative effects on community trade. If there are some evidence that can

support these complaints, community bodies may use WTO commercial dispute settlement mechanism.

- *Market access strategy.* Based on EU's Market Access Database documentary foundation to assess the level to which European products have access to third markets is created, a systematic mean to track what happened with complaints from European companies is provided to Commission, and a means by which you can see at what level commitments of EU partners are implemented bilaterally or multilaterally is provided.
- *Monitoring trade defense measures applied by third countries.* Community bodies have a panel of mechanisms that can check if third countries are out of international conduct norms that regulate the right way for application of defense market instruments (antidumping, countervailing or safeguard measures). Specialized services of the Commission advise all stakeholders and report violations by third parties of fair trade conduct and create premises that sensitive issues can be discussed in bilateral or multilateral trade forum.

Eu is proving very good at the chapter technical obstacles, like all industrialized countries. Most of the regulations on technical requirements and compliance plan are harmonized at EU level in order to ensure free movement of goods, while maintaining the highest level of health and safety of persons, animals and plants, a high degree of protection of consumer and environment ([WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, section 3.1.8](#)). The EU technical regulations, standards and evaluation procedures of conformity is included in Blue Guide on the implementation of EU rules on products, adopted on 2000 and revised several times (last time on 2014) (European Commission [2014](#)). Regulatory bases for development of uniform standards are represented by Regulation no. 1025/2012 where we find the procedures to be followed for the implementation of standards or similar technical regulations by European organizations working in the field of standardization (*European Committee for Standardization, European Committee for Standardization in the field of electrical engineering, European Institute for Standards in Telecommunications*).

Based on this *acquis*, also national bodies from technical regulation field must notify publicly their program of activities. Commission manages an online database where all requirements relating to the adoption of new technical regulations and the list of national standardization bodies from member countries are included. Goods in legal circulation in a Member State should benefit from the *mutual recognition principle*, so they must move freely in other member states even it may be considered that do not fully correspond to specific technical requirements of the country. Even in these circumstances, a product may be restricted as an exception, if it can be proved that the refusal “*is justified on grounds of public morality, public policy or public security, protection of the health or life of humans, animals or plants; to protect national treasures possessing artistic, historical or archeological*

*value; the protection of intellectual and industrial property*” (TFEU, Article 36.) or other reasons decided by the European Court of Justice. EU legislation on *sanitary and phytosanitary measures* (SPMs) has been harmonized with international trade conduct although, in certain circumstances, member states can adopt certain measures ([WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, section 3.1.9](#)). On May 6, 2013 the Commission adopted and notified the WTO Committee on SPS a set of measures regarding the simplification, modernization, increase of consistency and convergence of technical regulations with multilateral rules of conduct. These measures focused on standards of health and public security in the logistics chain related to agricultural products. This package entered in the normal consultation and regulation process in the Parliament and the Council of Ministers on May 17, 2015. EU member states are members of the Commission on *Codex Alimentarius*, of *World Organization for Animal Health* and contracting parties to the *Convention on the Plankton*. European Union is member of one of these organization, in addition to its member states. Provisions on SPMs can be found in all bilateral agreements signed by the EU, which strengthens the concern for international trade in accordance with the principles of non-discrimination, transparency, reciprocity, ethics and fairness.

*Domestic support measures and direct export subsidies* represent a package of regulations that in certain circumstances can significantly distort competition and have been used effectively by EU. Especially when EU member states have experienced the effects of economic turmoils it the use of these trade policy measures has become common in both protection and promotion of exports. In recent years, we can say that the level of state intervention in economic life has increased. Some analysts have pointed out that, although multilateral trade conduct have regulations regarding the use of these measures, subsidies for trade reasons „*are still difficult to disciplined politically*”. This can be explained by the fact that subsidies become more and more “*prerogatives of national politics*” thus abandoning them may suggest giving up national sovereignty, attribute of statehood. Some analysts suggest that, although an open economy reduces the inefficiency associated with the redistribution of income between sectors and make them less expensive than in economic isolation, subsidies are preferred as a means of redistribution and it should be implemented more frequently. It has been proved that subsidies to certain sectors can stimulate production in these sectors and a perceptible redistributive effect can be recorded (Vannoorenberghe and Janeba 2016). These tools that hopefully solve certain asymmetries or market failures are part of the arsenal used in some EU sectoral policies (*regional development policy, social common policy, agricultural common policy*). By calling these type of stimulus community bodies pursue several goals such as: “*creating new jobs, increasing (even artificial) competitiveness, economic growth, improving quality of life or sustainable development*” ([European Commission online information 2015](#)).

EU state aid regulation is reviewed every seven years, the set in force at the moment is that adopted on December 17, 2013, under Regulation no. 1305/2013 concerning support for rural development by ERDF. In accordance with Art. 107 to 109 from TFEU, state aid favoring certain economic actors or the production of certain goods is basically forbidden and considered incompatible with the single market principles. However, there are many exceptions that the Commission has approved under specific regulations. State aid must be approved in advance by the Commission and if there is incompatibility of these schemes with Community rules, then the amounts received must be returned to the state which granted the support. An improvement of process of state aid grant produced after the global crisis burst in 2008 and was based on various rescue programs adopted both national and EU level. Using this type of supporting scheme of economic actors or of an entire sectors of economy was not homogeneous at community level and the actions of the governments were not treated equally by the Community institutions.

For some countries (Bulgaria, Czech Republic, Estonia, Malta, Romania and Croatia) state aid related to crisis was not approved. Common bodies have approved aid schemes for Poland and Slovakia, but these countries have not used them. Countries such as Lithuania, Hungary, Finland and Sweden have used these economic incentives in lesser extent. There were member states, like Ireland or Greece, who used extensively these forms of domestic support, particularly in 2011 and 2012. Specific regulations can be found in community legislation on services of general economic interest defined as (Pesaresi et al. 2012) “*services of an economic nature that the public authorities consider to be of particular importance to citizens but which are not offered under market conditions or at least to the minimum required by society*” and whose offering “*requires public intervention.*”

A unique sequence of EU trade and economic picture is competition policy connected closely, especially in recent decades, with trade policy. Principles and procedural—methodological aspects that define this sectoral policy can be found in Regulation No. 1/2013 laying down instructions that ensure the implementation of Art. 101 and 102 TFEU. By these elements, *restrictive trade practices, abuse of dominant position, merger distorting competitive environment and other non-competitive attitudes are prohibited.* By Art. 106 (2) TFEU some limited exemptions for companies providing general economic interest are allowed. Regulation no. 139/2004 regulated rules of procedure for the review and approval of mergers and acquisitions at Community level. In accordance with or in derogation from the general principles of EU competition policy, sector specific regulation has been continuously in this area. Analysis highlights that in recent years, as EU has implemented multilateral agreements, sectoral rules derogating from the essence of competition policy were limited. Latest changes in this regard focused on agricultural and shipping sectors. By adopting Regulation no.1308/2013 new exemptions have been adopted based on effectiveness of common negotiations between olive oil producers, beef, calves and seed material, and by Regulation no.697/2014 exceptions previously adopted for only 6 years were prolonged.

As globalization advances and international interdependence increases, the Community authorities responsible for competition issues have intensified cooperation

with authorities with similar responsibilities in other countries. Some examples are: Agreements with the US (1995, 1998 and 2011), Canada (1999), Japan (2003), Republic of Korea (2009), Switzerland (signed in 2012 and entered into force on 1 December 2014), Brazil (2009), China (2012), India (2013) and Russian Federation (2011). Provisions on competition were included in all bilateral agreements negotiated and concluded by the EU with third parties. EU actively supports multilateral cooperation, as a relevant actor in certain forums such as: *International Competition Network (ICN)*, *UNCTAD Intergovernmental Group of Experts on Competition Policy* or *OECD Competition Committee*. At Community bodies level this multilateral architecture can become active platform to promote undistorted competition and counteract protectionist practices. It can enable national authorities to respond more effectively for some more complicated cases as typology and scale border. Another sensitive area of EU trade landscape is the public markets (government procurement). According to a Commission estimation ([European Commission 2012](#)) expenses for the purchase of goods and services by public entities represent 13.7% of cumulative GDP of the EU. Because these transactions are carried out in accordance with multilateral trade conduct (plurilateral agreement on government procurement, with EU regulations in the field, but also with some specific national regulations, there may be relatively easy sources of distortion of competition. EU policy on government procurement has as main goal the maximum effectiveness in public spending on the way to transparent and non-discriminatory procedures, in accordance with the principles of the single internal market. The rules applicable in this area take into consideration other aspects such as: social aspects, innovative dimension, environmental regulations, technical aspects etc.

#### **4 Contribution of Trade Policy to Implementing Europe 2020 Strategy Goals**

For decades the European integration landscape, facing more challenges, has tried to be enrolled in a strategical logic defined through emblematic objectives and supported by a series of multiannual financial perspectives. Such a new design of European integration in economic and trade area can be found in referential documents: Agenda 2000, Lisbon Strategy, and Europe 2020 strategy. By adopting the Europe 2020 strategy, European integrative group has proposed to create during 2010–2020 all premises to reach a smart, sustainable and socially inclusive economic growth. Trade measures can be found through measures designed to help achieving the 7 flagship targets. The most important strategic measures related to trade area are: *EU participation in the successful completion of bilateral and multilateral negotiations; development of trade relations with other strategic partners; supporting European business environment actors to increase their presence in foreign markets; creating new opportunities for European and foreign investors; a more proactive approach in the implementation of commitments in*



*terms of international partnerships; internalization as many benefits derived from the progress of globalization.*

This new strategic repositioning involves: *a more accurate application of multilateral rules of conduct; identification of most effective ways that support legitimate rights of European economic actors; more strictness of retaliatory measures at unfair trade practices; successful use of the mechanism of multilateral trade dispute settlement; offering best practices in the implementation of commitments; fight against protectionism.* Actions should be focused on: switching from trade liberalization to support more stakeholders to benefit from this process; implementing effective measures to increase inclusiveness of economic growth (the successful use of European Globalization Adjustment Fund); an increasing EU role in translating Development Agenda; reviewing Community schemes of nonreciprocal and nondiscriminatory preferences in the logic of a new GSP; greater transparency and legitimacy regarding correlation between trade and development; reviewing fundamentals in economic and trade partnership; taking greater account of social and environmental issues. It is recommended to promote a trade policy with a high degree of effectiveness. Such trade policy is one focused on: new economic realities defined by global value chains, digital economy and the increased role of tertiary and quaternary sectors; supporting cross-border mobility of experts, top managers and service providers; a structured partnership involving states, community bodies (especially European Parliament) and corporate and civil society leading to better implementation of various agreements; role in the growth of the SME sector.

A proper trade policy nowadays is one that is developed and applied in connection with other sectoral policies, especially those related to investments. Therefore, EU trade policy must respond to European citizens' expectations and send credible messages to other regions of the planet. A regulatory and institutional framework is necessary, where prevail measures that aim a sustainable economic growth, a correct, ethical, nondiscriminatory and mutually beneficial of trade with foreign countries, to ensure proper application of the promised facilities and granted preferential schemes. New goals that need to be promoted through the revised instruments of common trade policy must be: energizing multilateral trade negotiations so that multilateralism be boosted by bilateral and plurilateral approaches, and not eroded by them; enhance the presence of the European economic actors on the markets of Asia, Africa and Latin America; reconsidering the partnership with BRICS countries; placing in the logic of new generation of trade relations with Australia, New Zealand, India, the Philippines and Indonesia; implementation of provisions of Trade Agreement with Canada (recently adopted and in ratification process); restarting negotiation with US to complete Trans-Atlantic Trade and Investment Partnership (TTIP); upgrading existing agreements with Turkey, Mexico and Chile; reviewing trade relations with Russian Federation to eliminate hostility and to exploit existing opportunities.

It is necessary that EU policy makers to do more for transparency, credibility and legitimacy of adopted measures. Most Europeans must be convinced that the adopted measures may bring them additional benefits. If we talk about the partnerships negotiated with other states, community bodies must demonstrate that they



want to create conditions for European users of goods and services to benefit from cheaper products, more, diverse and quality greatly improved. In addition, new trade strategy should protect European consumers and ensure that citizens can trust products that come to them. Such a new strategy should ensure the increase in jobs available for EU workers, especially that international statistics show that 90% from the future global economic growth will occur outside the European Union and one to 7 jobs depend on exports outside the EU. Community bodies must ensure that all commercial partners meet social and environmental standards agreed at international level. Transparency of trade negotiations must increase in order that many EU citizens take note of the results.

### Questions and Activities

1. The need of a single community trade policy has been fueled by the *requirements related to the achievement of the single internal market*. Explain and comment upon this statement in the light of the challenges currently facing the current EU's trade policy.
2. "*The common trade policy is the core of foreign economic relations of the European Union*". Explain why this statement may have been made. Do you agree with it (make sure you justify your answer)?
3. Rhetorically, it can make note that "*The EU's foreign trade policy contributes to Europ's competitiveness on foreign markets*" Do you agree with it (make sure you justify your answer)?
4. Some analysts consider that, in the recent years, EU has become one of the most commercial protectionist actor at the global level, especially in the trade in products intensive in human resource. Explain why this statement may have been made. Do you agree with it (make sure you justify your answer)?
5. EU could be considered as a global economic actor who want to attack the so-called "*specific problems of the 21st century*" such as: *investments; competition policy; government procurement; food security; export duties; climate change; underevaluation of exchange rates*. Explain and comment upon this statement in the light of the challenges currently facing the new trade policy.
6. Shortly analyze five *reasons of switching from trade liberalization to practicing protectionism*.
7. The way in which act such an atypical economic actor (European Union) and ensure implementation of multilevel governance (with the corollary principle of subsidiarity) is very interesting. Do you agree with it (make sure you justify your answer)?
8. Shortly explaine if the *defensive tools* of trade policy can contribute to the development of fairer trade and protection of interests of various components of European society.
9. Shortly explaine if the *offensive tools* of trade policy can contribute to the development of fairer trade and protection of interests of various components of European society.

10. The defining documents for the Europe 2020 Strategy foresee that is recommended to promote *a trade policy with a high degree of effectiveness*. Explain and comment upon this statement in the light of the challenges currently facing the current EU's trade policy.

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