

The European Union's trade and investment policy in Asia: new challenges and opportunities in a changing global environment – or: following individual roadmaps

Marc Bungenberg¹ · Angshuman Hazarika²

Published online: 23 October 2017
© Springer-Verlag GmbH Germany 2017

Abstract Asia is Europe's largest trading partner and EU-Asia trade relations have undergone a rapid change since the global financial crisis. On a global scale, the new multilateral trade agreements such as the now stalled Trans-Pacific Partnership (TPP) involving European Unions' (EU) major trading partners such as Japan, Singapore and Vietnam also have the potential to change the trade equations. In this paper, we evaluate the new EU trade policy which has been designed to ensure that the EU benefits from the changing global trade scenario and also look at the steps which have been taken by the EU to promote trade relations with its major trading partners in Asia in the predicted 'Asian century'. We look into the Free Trade Agreements, which are being negotiated with its Asian partners and seek to understand the reasons which have resulted in delays in their signing and negotiations. We evaluate new policies pushed forward by its Asian partners such as the One Belt One Road policy by China and Japan's policy of securing a large number of trading agreements in the America. Moving ahead, we also shed light on the indirect factors that may influence the success of EU trade negotiations in Asia such as the EU policy on granting China market economy status and the commencement of the 'Brexit' process. Lastly, we try to present a list of immediate priorities for EU in Asia, which will ensure that it secures a toehold in trade with the region. All in all, it is shown that the EU has not one and the same approach for all Asian countries but it negotiates flexibly and individually country by country. Because of this "country by country approach" the EU is also not ready to enter into general EU-ASEAN trade negotiations again.

✉ Marc Bungenberg
marc.bungenberg@uni-saarland.de

¹ Europa Institut, University of Saarland, Campus, Gebäude B 2.1, 1. Etage, 66123 Saarbrücken, Germany

² University of Saarland, Campus, Gebäude B 2.1, 1. Etage, 66123 Saarbrücken, Germany

Part I Introduction

The history of trade relations between Asia and Europe extends to ancient times with numerous accounts of flourishing trade in the ancient silk route. Fast forward to today, the EU is Asia's largest trading partner (Amighini 2016A) with a share of more than 40% of total European Union (EU) trade (Khandekar 2013). It is also home to four of the EU's strategic partners—China, India, Japan and Republic of Korea (ROK) (Cameron 2014) which together had 23.2% share of EU global trade in 2016 (Directorate General for Trade 2017A).

With the 'Global Europe' strategy of 2006, the EU had taken a more proactive role in trade negotiations and commenced Free Trade Agreement (FTA) negotiations with India, the ROK and the Association of South East Asian Nations (ASEAN) which is a regional organisation consisting of Singapore, Brunei, Malaysia, Thailand, Indonesia, Philippines, Vietnam, Laos, Cambodia and Myanmar. However, the financial crisis of 2008 and the coming into force of the Lisbon treaty had a profound impact on the EU trade negotiations. The EU faced a number of challenges at home including the Greek financial crisis and the liquidity crisis for the banks. Trade negotiations took a back seat and by the end of 2009, the EU-ASEAN FTA talks had stalled and were partially replaced with attempts at bilateral negotiations with major trading partners within the ASEAN (Ahnliid 2012).

The break in trade negotiations after the Lisbon treaty amidst the legal debate on the exclusive competence of the EU to conduct trade agreements had brought a temporary standstill to the EU's trade negotiations. After the Lisbon Treaty came into force, the EU at first was expected to have received the competence for signing agreements not only for trade in goods but also for more general comprehensive economic agreements. It has however faced questions on the extent of the competence and whether there is still a need to conclude 'mixed agreements'.¹ The issue was important since the EU had and has trade agreements under negotiation and a few under the process of ratification. For a clarification on the question, whether the EU could conclude "EU-only-agreements", the European Commission (EC) approached the Court of Justice of the European Union (CJEU) for an opinion.² The CJEU in its Opinion 2/15 from 16 May 2017³ stated that the EU does not have 'exclusive competence' on the conclusion of the EU-Singapore FTA. This is expected to complicate the process of trade negotiations for the European Union in a fast moving world of bi- and regional trade negotiations (Beesley 2017).

¹ For a detailed discussion on the EU competence for trade agreements and the need for mixed agreements, please see Bungenberg (2010).

² See Para 1 of Opinion 2/15 of the Full Court, Opinion pursuant to Article 218(11) TFEU — Free Trade Agreement between the European Union and the Republic of Singapore, 16 May 2017, ECLI:EU:C:2017:376; The exact question to the CJEU was: 'Does the Union have the requisite competence to sign and conclude alone the Free Trade Agreement with Singapore?'

³ Opinion 2/15 of the Full Court, Opinion pursuant to Article 218(11) TFEU — Free Trade Agreement between the European Union and the Republic of Singapore, 16 May 2017, ECLI:EU:C:2017:376.

Since about 2005, competing global powers marched ahead with negotiations and new trade blocks: Bilateral FTAs and multilateral agreements also flourished within Asia with the ASEAN signing FTAs with India, China and ROK. The formation of a Regional Comprehensive Economic Partnership (RCEP) combining the existing ASEAN members and its free trade partners is also under negotiation (DFAT 2017). The mega-regional Trans-Pacific Partnership (TPP) consisting of 12 major countries including the USA (now withdrawn), Singapore, Australia, Canada, Japan and Malaysia was finally successfully signed in 2016 (MFAT 2017). If and when this agreement will enter into force and if yes with which contracting parties is nevertheless more than an open question.

The EU entered relatively late into the challenges of the new round of bi- and regional trade agreements. Meanwhile it is playing a catch up game of negotiating competitive trade deals. It has proposed a number of new agreements with its major Asian trading partners (Binder 2016). But contrary to the trend of multiparty trade agreements in the region, the EU had started—and meanwhile concluded—individual negotiations with Vietnam⁴ and Singapore⁵ that led to broader Free Trade Agreements and has restarted talks with India. A comprehensive Free Trade Agreement with Korea had already entered into force in July, 2011. Also, the EU has announced a number of fresh negotiations with other trading partners in Asia including Malaysia, Indonesia and Thailand.⁶

Thus, the EU has placed added attention on its Asian trading partners and has undertaken a different approach for each country. For the EU, as pointed out by the EC in its 2010 communication—*‘Trade Policy as a Core Component of the EU’s 2020 Strategy’* (‘2010 Communication’), its trade policy needs to pay particular attention to the US, China, Russia, Japan, India and Brazil.⁷ This strategy should continue, even though in 2015, there was a broad revamp in the trade strategy through the new Commission Communication entitled *‘Trade for All’* (‘2015 Communication’) which emphasises on transparency and brings into equation new parameters such as services and the digital economy and promotes fair and ethical trade schemes with an eye on the future.⁸ With the prediction of an ‘Asian century’ (Groff 2012) ahead, it is only understandable that the EU comes up with a flexible plan to move ahead with trade partnerships with major Asian economies.

⁴ The text of the EU-Vietnam Free Trade Agreement was published on 1 February, 2016 and is available for perusal at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437> (accessed 30 May 2017).

⁵ The negotiations for an EU-Singapore FTA was completed on 17 October, 2014 and the initialled text of the EU-Singapore Free Trade Agreement was published on 29 June, 2015. The text of the FTA as on May, 2015 is available for perusal at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=961> (accessed 30 May 2017).

⁶ An official update from the European Commission about the Free Trade agreements under negotiation as on May, 2017 is available for download at http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf (accessed 30 May 2017).

⁷ The 2010 Communication can be officially found as European Commission Communication No. COM(2010) 612 of 9 November, 2010, *Trade Policy as a Core Component of the EU’s 2020 Strategy* and we refer to it throughout the paper as ‘2010 Communication’.

⁸ The 2015 Communication can be officially found as European Commission Communication No. COM(2015) 497 final of 14 October, 2015, *Trade for All- Towards a more responsible trade and investment policy* and we refer to it throughout the paper as ‘2015 Communication’.

Part II European Union policies and concerns

EU trade strategy 2010 and EU trade policy review: trade for all, 2015

The EC in its 2010 Communication had recognised that facilitation of global trade and dismantling of trade barriers should be a priority for the EU. It has promoted opening of trade relations stating that there will be three prime benefits of opening the market:

- (a) Economic growth: In 2010, it projected a 1% increase in EU GDP if the Doha rounds and all existing bilateral agreements were finalised.
- (b) Benefits for the consumer in terms of a wider variety of products and lower prices.
- (c) Increase in employment opportunities in the EU.⁹

The EC also realised that Asia was poised to take a leading role in the global trading map and was quick to acknowledge this change. The EC stated in its 2010 Communication that it saw that by 2015, ‘90% of the world’s growth will be generated outside Europe’ and that the developing and emerging countries will make up for 60% of the world GDP by 2030. The EC further recognised the fact that reduction of tariffs on industrial and agricultural goods might be important but market access for services and investment and other issues like raw materials and harmonisation of standards will take centre stage in the future. The EC expressed in its 2010 Communication that it thinks that the Doha agreement is not the only answer to all global trade questions and although the successful finalisation of the Doha round negotiations remain a top priority, it also has to take alternative steps to build up bilateral trade relations.

Then in 2015, the EC released a new strategy entitled ‘Trade for all’ which focussed on putting EU on the growth path after the long drawn out recession. The EC has stated that ‘*Trade is one of the few instruments available for boosting the economy without burdening state budgets*’ (2015 Communication, p.3).⁹ The EU in this new policy has realised that investment is a key part of this process and Asia can be an important source of foreign direct investment (FDI). The EU has recognised that trade deals are essential and cites the success of the EU-ROK FTA which turned EU’s trade deficit into a surplus as a justification for moving ahead with negotiation of the new generation of agreements.¹⁰ The implementation of the trade strategies mentioned above has however been modified on a country to country basis as all its Asian trading partners have different priorities.

The EU also has recognised the popularity of new trade agreements such as TPP and in the new 2015 Communication has called for ‘appropriate mechanisms’ in FTAs allowing other countries to join in the future. It also comes as no surprise considering the growing importance of the Asia-Pacific and with new trade agreements in the region, the EU recognises that such mechanisms ‘*can be followed in linking the EU’s existing and future FTAs in the Asia-Pacific, a region critical for the operation of global value chains*’ (2015 Communication, p. 21).

⁹ A detailed explanation of the benefits can be found at p. 5 of the 2010 Communication.

¹⁰ For a detailed overview of the EC claims, the press release on the success of the EU-ROK FTA can be accessed at europa.eu/rapid/press-release_IP-16-2356_en.htm (accessed 30 May 2017).

Identifying concerns and first strategies for the European Union

The election of Donald Trump as the new President of the United States and his immediate implementation of the decision to walk out of the TPP (Smith 2017) and renegotiate the North American Free Trade Agreement (NAFTA) (Snavelly 2017) caused concern among traders and governments across the globe. The election of the new President also meant that the much anticipated Transatlantic Trade and Investment Partnership (TTIP) negotiations will most likely not continue.¹¹

Parallely, the EU is facing an impending Brexit which will lead to one of its largest economies exiting the EU, leading to a possible reduction in size of the large EU internal market. The latest developments signalled that the EU should now move ahead faster in engagements with Asia which is likely to be a key market and the growth frontier for the next decade (Garcia-Herrero and Xu 2016). As mentioned before, Europe has done well to realise that there can be no single 'Asia strategy' but individual and flexible plans for trade negotiations with individual Asian trading partners, as each of them have unique priorities and economic situations.

Asia presents varied challenges with small economies like Laos with a GDP of a few billion dollars and trillion dollar economies like China, Japan or India. Therefore the EU can least afford to have a single rigid negotiating plan for such diverse countries. The need for different strategies can already be shown by the example of hurdles in the case of trade negotiations with the two largest Asian economies—Japan and China. Here, while in case of negotiations with Japan, the most difficult points are market access for alcohol, sensitive food and agricultural products as well as cars, the list of difficulties is different in the negotiations with China, where major concerns relate to a more general market access for European investors, intellectual property protection, legal certainty and therefore, first of all investment protection.

Europe had acquired an early start in the region by establishing dialogues for a close relationship with the ASEAN already in 1977.¹² The relationship favoured both the parties as for Europe it meant a promotion of the principle of regional integration, while for the ASEAN it meant a source of much needed funds and global recognition of its steps for promoting peace, harmony and greater trade relations between the Southeast Asian nations. As ASEAN moved towards closer trade relations between its members and formed the ASEAN Free Trade Area,¹³ the EU seemed to be in prime position to reap the benefits through a FTA with the countries of the grouping and as expected, trade negotiations started in 2007 (Ji 2015). The talks however stalled midway and were suspended in 2009 (Astuto 2014) with the EU favouring bilateral trade negotiations with the ASEAN countries.

¹¹ A detailed picture of the TTIP has been provided by the European Commission through its website <http://ec.europa.eu/trade/policy/in-focus/ttip/> (accessed 30 May 2017).

¹² A detailed overview of the history of EU ASEAN relations can be accessed at http://asean.org/?static_post=overview-of-asean-eu-dialogue-relations# (accessed 30 May 2017).

¹³ Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area signed in Singapore on 28 January 1992 which was superseded by the ASEAN Trade in Goods Agreement, 2009.

The Asia-Europe Meeting (ASEM) is another forum establishing stronger relations between the EU and Asian countries. The ASEM was proposed in 1994 with the aim of bringing all the countries of Asia and EU under one umbrella.¹⁴ The EU was right to recognise the strength of the idea and immediately implemented it in 1996.¹⁵ Over the years, the ASEM has expanded in size and now has over 51 (fifty one) participating countries (Islam 2014). The ASEM platform has however failed to provide a unique perspective on EU-Asia relations and has played a supporting role to bilateral negotiations or organisations working in this area (Gilson 2012).

These two aforementioned examples show that even with significant investments in building strong relationships with Asian countries, the EU has not been able to convert them into strong trade and investment-related agreements until date barring a few exceptions. In this regard, it has to be remarked that in the entire west and central Asian region, the EU has a FTA/an association agreement only with Israel,¹⁶ Jordan,¹⁷ Lebanon,¹⁸ Palestinian Authority¹⁹ and Georgia²⁰ and a customs union with Turkey,²¹ but Turkey and Georgia are partly located in Europe.²² It must be recognised here that the rapid rate at which trade alliances are being formed in the region (ex. the RCEP) and the spurt in intra-Asia FTAs threatens to negate the first mover advantage for Europe and force it to accept unfavourable trade deals or reset its trade relations with Asia if it does not enter into new agreements at the earliest.

The financial crisis and impact on EU-Asia relations

The Financial crisis of 2008 affected countries across the globe, but an impact was also profoundly felt in the EU-Asia relations. Even though the crisis was mainly created by a ‘Western Economic Model based on liberalisation and deregulation’ (Pacheco Pardo 2013, p. 41), government representatives on both continents agreed that there was a need to work together to resolve the crisis. The crisis however presented a new opportunity to a few rapidly rising Asian countries seeking investment opportunities in Europe. Europe for its part benefited from investments from Asian capital exporting countries such as Japan, South

¹⁴ A detailed analysis on the history of ASEM can be accessed at <http://www.aseminfoboard.org/content/history> (accessed 30 May 2017).

¹⁵ An overview of the background which led to the formation of the ASEM can be found in the Communication for the Commission to the Council and the European Parliament regarding the Asia-Europe Meeting (ASEM) to be held in Bangkok on 1–2 March 1996, COM(96) 4 final dated 16.01.1996, p. 1. See also Annex 14 of the Presidency Conclusions, Madrid European Council, 15 and 16 December, 1995 available at http://www.europarl.europa.eu/summits/mad1_en.htm (accessed 30 May 2017).

¹⁶ OJ L 147, 21.6.2000, p. 3, The EU-Israel Association agreement came into force in June, 2000.

¹⁷ OJ L 129, 15.5.2002, p. 3, The EU-Jordan Association agreement came into force in May, 2002.

¹⁸ OJ L 143, 30.5.2006, p. 2, The EU-Lebanon Association agreement came into force in April, 2006.

¹⁹ OJ L 187, 16.7.1997, p. 3, The EU-Palestinian Authority interim Association agreement came into force in 1997.

²⁰ OJ L 261, 30.08.2014, p. 4, The EU-Georgia Association agreement came into force on 1 July, 2016.

²¹ OJ L 361, 31.12.1977, p. 1, The EU-Turkey Association agreement came into force on 1 December, 1964.

²² A list of the EU Trade agreements till date can be accessed at <http://ec.europa.eu/trade/policy/countries-and-regions/agreements>

Korea and China investing in the recovery of European companies (Anderlini 2014). For the Asian companies, it was a rare opportunity to pick up stakes in global icons at attractive valuations while for the European companies; it meant a flow of much needed investment. Probably the cream of all these transactions and the indicators of change were the Chinese acquisitions of Italian iconic tyre maker Pirelli,²³ stakes in Heathrow²⁴ and Toulouse airports²⁵ and in the Swedish car maker, Volvo²⁶ (The Economist 2015). The Chinese investments support more than 45,000 jobs in Europe and projections state that 16,000 jobs were saved in Volvo alone due to its purchase by a Chinese company (Hanemann and Rosen 2012). Nevertheless, these investments into the EU markets have also been criticised and market access control has been introduced in different EU member states.

EU recognising the need for engagement with key players in Asia

The EU as partly explained above, had long recognised the need for building a stable relationship with Asia and has invested in building multiple channels of communication with Asia. It must be reiterated that, four of EU's top ten trading partners China, Japan, ROK and India lie within the region and it cannot afford to ignore its trade interests there (Cameron 2013). The region also sees a vast amount of inflow and outflow of investment directed from or towards the EU. In broad terms, Asia is seen as an important trading partner for the EU. Irrespective of this, for Europe, its strategy in the South Asian region to move out of a plan for a trade agreement with the ASEAN may prove very costly.

The push towards renewal of EU engagement in Asia which commenced with the ASEM in 1996 (Cameron 2013) was further strengthened by the 2001 Commission Communication 'Europe and Asia: A strategic framework for enhanced partnerships'²⁷ and then inter alia with the EU acceding to the Treaty of Amity and Cooperation in Southeast Asia (TAC) in 2012 (European Commission 2012).²⁸ It had hoped that its plan of a FTA with India and Korea as a part of the 'Global Europe' strategy would help it to build a strong toehold in the region and partly offset the setback. The negotiations with Korea which started in May 2007 led to the signing of the EU Korea FTA on 6

²³ The EC approval for the merger was issued on 1 July, 2015 in Case No. M.7643 - CNRC/ Pirelli - OJ C 233, 17.7.2015, p. 2

²⁴ The official press release from the seller 'Ferrovial' declaring the conclusion of the transaction is available at http://www.ferrovial.com/en/press-room/press_releases/ferrovial-sells-572-of-heathrow-airport-holdings-to-stable-investment-corporation-a-wholly-owned-subsiary-of-cic-international-co-ltd-for-gbp-2574-million/ (accessed 30 May 2017).

²⁵ The update on the stake sale of 49.9% shares of the Toulouse airport is recorded by the Holdings and Transfers Commission and Privatisations in France through its report dated March, 2016 which is available for download at <https://www.economie.gouv.fr/files/cptexpo2016en.pdf> (accessed 30 May 2017).

²⁶ The EC approval for the merger was issued on 1 July, 2010 in Case No. COMP/M.5789-Geely-Daquin/Volvo Cars- EUR-Lex Doc No. 32010 M5789

²⁷ The 2001 framework was officially released as the European Commission Communication No. COM (2001) 469 final of 4 September, 2001, Europe and Asia: A strategic framework for enhanced partnerships.

²⁸ Information about accession to the treaty was released through a press release which can be accessed at http://europa.eu/rapid/press-release_IP-12-781_en.htm (accessed 30 May 2017).

October 2010. Unfortunately, the negotiations with India which were launched around the same time in June 2007 are presently stalled and no agreement is expected soon (Mishra 2016). On the contrary, China,²⁹ India³⁰ and Australia- New Zealand³¹ have filled in when Europe left and have moved on to conclude FTAs with the ASEAN.

For the EU, as it emerged from the temporary setback and as the relations with the ASEAN improve, it focused on streamlining its engagement with key players in the region such as Japan and China, on whom we discuss more in the following section.

Part III Key goals for EU in Asia

3.1. Fruitful engagements with China

China has entrenched itself as the EU's second largest trading partner (Directorate General for Trade 2017B) and also a challenging contender for the EU's products in the world market. The Chinese have already secured access to some of the key markets in Asia and have also worked on trade diplomacy over the past decade. More recently, Chinese enterprises are also seen investing in different projects in the EU internal market (Hanemann and Rosen 2012).

Furthermore, the One Belt One Road (OBOR) initiative by China aims to build a trade, energy and natural resources highway between Asia and Europe (Simmons and Simmons 2015).³² The project with its priority of building an integrated mechanism for trade especially between Asia and Europe has two main components—the Maritime Silk Road and the Silk Road economic belt, both of which are inter-related. The belt

²⁹ The China-ASEAN FTA consists of multiple agreements- Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation between China and ASEAN, Agreement on Dispute Settlement Mechanism of the Framework Agreement on Comprehensive Economic Co-operation between China and ASEAN, Agreement on Trade in Services of the Framework Agreement on Comprehensive Economic Co-operation between China and ASEAN and Agreement on Investment of the Framework Agreement on Comprehensive Economic Co-operation between China and ASEAN which entered into force in various stages starting from July, 2005 to 2009. The official text of FTA is available for download at <http://fta.mofcom.gov.cn/topic/chinaasean.shtml> (accessed 30 May 2017).

³⁰ The India-ASEAN FTA consists of multiple agreements- Framework Agreement on Comprehensive Economic Cooperation between the Republic of India and the Association of Southeast Asian Nations, Agreement on Trade in Goods Under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India, Agreement on Dispute Settlement Mechanism under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India, Agreement on Trade in Services under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India and the Agreement on Investment under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India which entered into force in various stages starting from 1 January, 2010 and is under implementation. The official text of the FTA is available for download from <https://www.iesingapore.gov.sg/~media/IE%20Singapore/Files/FTA/Existing%20FTA/ASEAN%20India%20FTA/Legal%20Text/ASEANIndia20FTA20Legal20Text.pdf> (accessed 30 May 2017).

³¹ The ASEAN-Australia-New Zealand FTA -Agreement establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) entered into force in January, 2010. The official text of the FTA is available for download from <http://dfat.gov.au/trade/agreements/aanzfta/official-documents/Pages/official-documents.aspx> (accessed 30 May 2017).

³² A detailed note on the OBOR project by Simmons and Simmons can be read at http://www.iberchina.org/files/2016/obor_simmons.pdf (accessed 30 May 2017).

has developed economies on one end and rapidly developing countries on the other end and it is expected that it will aid countries on both ends (Cui 2016). There is no single list of countries that will be included in the program but it is stated that more than 70 countries have responded positively to the proposal (Cui 2016). The OBOR initiative will probably reach out into the EU. Chinese infrastructure projects as a part of the plan are already seen in the form of investments in the port of Piraeus³³ and railway investments in Hungary.³⁴ The EU does not yet have an official position on the OBOR although it was recognised in a resolution of the European Parliament³⁵ (Grieger 2016).

While China marches ahead on the path of trade diplomacy, the EU and China have a number of contentious issues which needs immediate resolution. The debate on whether China should be considered as a market economy has captured the imagination of scholars and decision makers on both sides and is now considered as one of the biggest sore points in the relationship. Chinese scholars have been quick to underline that they consider that Europe's recognition of China as a market economy is probably the correct decision, whereas the same view is not universal, for example the European Parliament is of a contrary opinion.³⁶ To a large degree, this question of granting China a market economy status (MES) is seen as more of a political than a mere technical issue in the field of calculating the normal value in anti-dumping investigations. The MES as well as the anti-dumping discussion can have a far-reaching consequence in terms of political as well as trade relations (Shi 2016). Inter alia there can be a severe impact on the progress for a bilateral investment treaty (BIT) between China and the EU and also ultimately create hurdles in a potential China-EU FTA or even in China joining the WTO Government procurement agreement.

Foreign investments in either way are another highly debated issue in the EU-China relations. Chinese investments in Europe can be an unique opportunity for European companies seeking new opportunities and should be viewed as more than a short term competitive threat (Slater 2003); nevertheless, new barriers seem to be set up, for example, market access controls have come up as the positive view on Chinese investments is not approved by all the parties (Conrad and Kostka 2017; Forchielli 2015). It is also a frequently highlighted fact by Chinese authors that European exporters to China have also benefitted from Europe's trade with China and Europe tends to downplay the benefits of trade relations with China (Shixue 2013; Xiang 2017). In this regard up to now, only bilateral agreements between EU member states and China on the protection of foreign investments exist. Therefore, the EU is currently negotiating a bilateral investment agreement with China that not only contains standards on investment protection, but also provisions on market access. Furthermore, it will be interesting to see whether or not China will be the much needed heavyweight partner for Europe to set up a multilateral investment court (MIC). China has also

³³ The official press release of the Hellenic Competition Commission stating the grant of Clearance for acquisition by COSCO (HONG KONG) GROUP LIMITED of sole control over PIRAEUS PORT AUTHORITY S.A. dated 22 June, 2016 is available for download at [https://www.epant.gr/en/\(X\(1\)S\(cpx4Izim4gsaohfwsy5olpti\)\)/default?AspxAutoDetectCookieSupport=1](https://www.epant.gr/en/(X(1)S(cpx4Izim4gsaohfwsy5olpti))/default?AspxAutoDetectCookieSupport=1) (accessed 30 May 2017).

³⁴ The official declaration of the signing of the agreements for construction of a High-speed railway in Hungary can be accessed from the website of the State Council, The People's Republic of China at http://english.gov.cn/premier/news/2015/11/25/content_281475241762006.htm (accessed 30 May 2017).

³⁵ The European Parliament resolution of 16 December 2015 on EU-China relations (2015/2003(INI))

³⁶ The European Parliament resolution of 12 May, 2016 on China's market economy status (2016/2667(RSP)).

stepped up efforts for accession to the WTO Agreement on Government Procurement and is negotiating accession in active manner.³⁷

Therefore, the EU-China negotiating agenda is dominated by the issues of investment protection, market access and MIC as well as the trade defence instruments discussion. Nevertheless and all in all, it can be said that for these relations, the WTO forms the underlying legal order upon which it is built, which is via WTO-obligations in different fields.

Japan as one of the fundamental pillars of EU-Asia trade relations

Japan is one of Europe's strongest trading partners in Asia. There has been a history of ups and downs in trading relations with the country in the 20th century starting with the allegations of Japan's abuse of free trade rules to push exports in the 1970's to the much welcomed growth of Japanese factories in the USA and Europe in late 80's and 90's and later the cooperation between the countries in establishing the WTO (Suzuki 2015).

The next decade starting from 2000's however saw a gradual slowdown in cooperation between Japan and Europe primarily in the area of trade negotiations and ultimately Japan moved towards the path of negotiating FTAs with other Asian and American countries. As can be seen from the writings of authors, at this stage of shift (generally called the first stage), instead of free trade negotiations between the EU and Japan, both sides instead went into a competitive path trying to conclude FTAs with their major trading partners (Solis 2011; Nakagawa 2011). Japan also felt that it had committed a delay in starting trade negotiations with Latin American countries owing to which it had to make compromises in the Agriculture sector, an extremely rare situation in Japanese trade negotiations (Suzuki 2015). Further, moving away from the global trade debate taking place between the USA and the EU, Japan placed highest emphasis on trade negotiations with Asian countries. The EU was viewed as a trade rival at this stage and Japan emphasised the fact that it had lost out on the first mover advantage in Latin America. By the time Japan stepped into the scene in the Americas, the EU already had a partnership agreement with Mexico (1997) and an association agreement with Chile (2002).³⁸

In the second stage of FTA/EPA (economic partnership agreement) negotiations which has started after the global financial crisis, Japan has moved towards negotiations with the EU and USA. The Japan-EU FTA negotiation process started in 2012 when the Commission approved a negotiating mandate for a FTA with Japan on 29 November, 2012³⁹ and the first meetings took place in Brussels in April, 2013.⁴⁰ The negotiating

³⁷ China submitted its sixth offer in December 2014 as a part of the accession negotiations. More information on the WTO Government Procurement Agreement and the progress of the accession negotiations is available from the official website of the WTO at https://www.wto.org/english/thewto_e/minist_e/mc10_e/briefing_notes_e/brief_gpa_e.htm (accessed 30 May 2017).

³⁸ The text of all the FTAs and Partnership agreements signed by Japan can be found at <http://www.mofa.go.jp/policy/economy/fta/> (accessed 27 May 2017).

³⁹ The negotiating mandate for Japan was approved at its 3203rd meeting by the Council of the European Union on 29 November, 2012. The information about the approval for starting negotiating was made public through a press release of the Council- 16,943/12 PRESSE 498 PR CO 66 dated 29 November, 2012 which can be accessed online at http://europa.eu/rapid/press-release_PRES-12-498_en.htm (accessed 29 May, 2017).

⁴⁰ The history and progress of the negotiations can be followed at <http://ec.europa.eu/trade/policy/countries-and-regions/countries/japan/> (accessed 27 May 2017).

agenda for the new FTA was ambitious and there was a review of the Japanese commitments on removal of Non-Tariff barriers in the first year itself.⁴¹ Although, the detailed text under negotiation is not available, fragmented information available from the Commission releases and websites provide some insight into the progress of the negotiations. The EU has proposed for a chapter on Good Regulatory Practices and Regulatory Cooperation as a part of the EU-Japan FTA.⁴² It is also known from an answer in the European Parliament by Ms. Malmström, the EU Trade Commissioner that the FTA will also contain provisions for investment protection and the proposal 'foresees the possibility' of a multilateral investment court.⁴³ As rightly pointed out by Suzuki (2015), a few towering questions however cloud such negotiations such as the impact of TPP on the negotiations, the scope for substantial benefits for both sides and if compromise on crucial issues such as automobile and electronics is possible in the future which would enable fruitful negotiations. The 18th round of negotiations which concluded in Tokyo in April, 2017 showed considerable progress on issues such as IPR and trade in services.⁴⁴

Although there is a pressure on both sides now to come up with a successful agreement particularly after the TPP and TTIP processes have come under cloud, there are a lot of contentious issues on the table and resolving them could take a substantial amount of time. But, all is not doom and gloom and agreements such as the Japan-Chile and Japan-Peru agreements show that concessions on areas such as agriculture are tough but not impossible (Suzuki 2015).

EU and Taiwan: redefining the relationship

The relations between the EU and Taiwan are unique and politics plays an equally important role as trade relations. Though bilateral trade between the two economies has increased manifold in recent years, but political considerations have made Taiwan the only 'top trading partner' excluded from the EU trade negotiations (Chun Lee 2017). Notwithstanding these hurdles, the EU is Taiwan's fifth largest trading partner and EU is also its largest source of FDI. Owing to the fact that due to political realities, a comprehensive FTA is unlikely, scholars have suggested 'out of the box' thinking (Chun Lee 2017).

To start off with, the EU has shown strong intent at building a stable trade relationship with Taiwan. Even in the face of compelling diplomatic issues, the EP passed a resolution in 2013 calling for a bilateral investment and market access agreement (Ministry of Foreign Affairs, Taiwan, 2013). The actual on ground

⁴¹ The European Commission provided an update on the trade negotiations with Japan through an update on 5 May, 2015 which is available at http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.05.05.pdf (accessed 29 May, 2017).

⁴² The EU proposal for Chapter on Good Regulatory Practices and Regulatory Cooperation EU-Japan FTA is available for download from the website of the European Commission at http://trade.ec.europa.eu/doclib/docs/2017/march/tradoc_155449.pdf (accessed 29 May 2017).

⁴³ The Answer given by Ms. Malmström in the European Parliament (EP) on 7 November, 2016 on behalf of the Commission is available for access from the website of the EP at <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-006436&language=DE> (accessed 29 May 2017).

⁴⁴ The Report of the Report of the 18th EU-Japan FTA/EPA negotiating round issued by the European Commission is available for download at http://trade.ec.europa.eu/doclib/docs/2017/april/tradoc_155506.pdf (accessed 29 May 2017).

practicality of considering a BIT or an FTA as a preferred option is however debated. A report sponsored by the European Services Forum and the Bureau of Foreign Trade, Taiwan ('ESF Report') recommended that keeping in mind the political scenario, a bilateral investment agreement might be the 'best alternative' but that a Deep and Comprehensive Free Trade Agreement (DCFTA) is preferred (Kerneis et al. 2016). Among other scholars, Chun Lee (2017) has mirrored the opinion in the ESF Report and has prescribed the negotiation of an FTA as the preferred option. The EC on the other hand has named Taiwan as a possible candidate for a standalone BIT (2015 Communication, p. 24).

With the uncertainty on which of the two types of agreements will fructify, it is generally agreed that the agreement 'should be ambitious' (Kerneis et al. 2016) and should go beyond the Trade in Services Agreement (TISA) (Chun Lee 2017). It has further been stated that if a comprehensive FTA or a BIT is not possible due to political considerations, alternative arrangements such as 'TBT and SPS Cooperation agreements' might be the way forward (Chun Lee 2017). Nevertheless, the path for negotiations is not yet clear and how the parties to such an FTA or BIT would be determined in the absence of diplomatic recognition is an issue which requires intense discussions (Ciurtin 2016).

Steps for trade with Myanmar

Myanmar which took centre stage as one of the key points of difference during the 2007 EU-ASEAN FTA negotiations seems to have been resolved and with the move towards the path of democracy by Myanmar in 2011 (European Commission 2017d), the EU has put the right step forward in Myanmar by working closely with ASEAN to promote development in the country (Marchi 2014). With the arrival of the new democratically elected government in April 2016, further growth in trade and investment opportunities are expected (EEAS 2017b).⁴⁵ For many western companies, Myanmar is the final frontier in Asia and a future fast growing economy presenting a large number of investment opportunities (Parker 2016). The European companies should seize this opportunity and should not be left behind their Asian rivals (Peel 2013). The EU is currently negotiating a stand alone investment protection agreement with Myanmar and the fifth round of negotiations were recently concluded in Yangon.⁴⁶

Putting EU-India relations on the fast track

The EU has designated India as one of its strategic partners and it ranks as the ninth largest trading partner of the EU. On the other hand for India, EU is its largest trading partner and also its largest export destination (Directorate General for Trade 2017 A). India has also been long considered as a counter weight for China; with such a possibility being expressed in a resolution of the EP in 1999.⁴⁷ Some scholars

⁴⁵ An overview of the EU-Myanmar relations can be found at https://eeas.europa.eu/delegations/myanmar-burma/1569/myanmar-burma-and-eu_en (accessed 29 May 2017).

⁴⁶ The Report on the fifth round of negotiations for the EU-Myanmar Investment Protection Agreement held on 26–27 April, 2017 at Yangon was published by the EC on 28 April, 2017 and is available for download from http://trade.ec.europa.eu/doclib/docs/2017/april/tradoc_155507.pdf (accessed 30 May 2017).

⁴⁷ The Communication from the Commission was published as OJ C 175, 21.6.1999, p. 442.

conversely see India as a counter weight for the growing US influence in Asian economics and politics (Vicziány 2015). The EU India relations have been shaped by the 2004 EC Communication on an EU-India strategic partnership ('2004 Communication').⁴⁸ The EU through the 2004 Communication sought to move for trade negotiations with India both at the multilateral (Doha round) and the bilateral level (FTA negotiations). But in reality, progress on both paths has been slow.

The large population of the country with rapidly rising incomes also makes it an interesting growth market for European companies (Bullis 1997). Considering its importance, the EU started negotiations for a FTA with India in June 2007. However, as mentioned before in this article, the FTA negotiations are caught up in some issues which are deemed extremely sensitive to both parties such as agriculture, automobile and spirits (alcohols) (Singh and Priya 2014). India alleges massive subsidies to European farmers particularly in the dairy sector (Vicziány 2015). Other contentious issues which hold back negotiations include Mode 4 access for Indian services and Indian IP protection regime (Vandewalle and Saarela 2016). The negotiations however remain on a standstill while contentious issues wait to be clarified (Vandewalle and Saarela 2016). For the EU, India can play a very crucial role in the future as it aspires to be a manufacturing hub and has a large talent pool of young technical graduates. Nevertheless, it is in the interest of both the parties that they reach a consensus on these issues because an EU- India FTA has massive positives for both sides including a potential for a '30% increase in each way flows of bilateral FDI as a direct result of signing an FTA' (see already CARIS 2007, p. 5). The deal is even more significant because the US does not have a FTA with India and the EU would have access to a market with vast potential (Vandewalle and Saarela 2016). A difficult issue in these negotiations will also be the different approach towards the protection of investment; the EU now is promoting the idea of a multilateral investment court, whereas India has not supported the idea of a new investor state dispute settlement mechanism and has instead tried to promote its new Model BIT of 2015 which still calls for the use of investor state arbitration.⁴⁹

Evaluating 5 years of the EU- Korea FTA

The EU Korea FTA⁵⁰ which came into force in 2011 has been described by the EC as the 'most ambitious FTA implemented by the EU so far' and the annual report⁵¹ ('2016 Report') released by the EC on the fifth year of the EU-Korea FTA has concluded that the 'EU-Korea FTA has worked very well' (2016 Report, p. 12). In numerical terms, the EU exports to Korea have seen a massive increase of 55% since the year before the

⁴⁸ The Communication was published as European Commission Communication No. COM(2004) 430 final of 16 July, 2004, An EU-India Strategic Partnership.

⁴⁹ Article 14 of the Model Indian BIT, 2015 states the provisions for investor state arbitration. The text of the Model BIT was released on 16 December, 2015 and is available for download at https://www.mygov.in/sites/default/files/master_image/Model%20Text%20for%20the%20Indian%20Bilateral%20Investment%20Treaty.pdf (Accessed 30 May 2017). The IISD covered the Indian position in p. 10, Issue 1, Volume 8, March 2017 edition of its quarterly journal 'Investment Treaty News.'

⁵⁰ The FTA was published as OJ L 127, 14.5.2011, p.6.

⁵¹ The Report was officially released as European Commission Communication No. COM(2016) 268 final of 30 June, 2016, Annual Report on the implementation of the EU-Korea Free Trade Agreement. Throughout this paper, it will be referred to as the '2016 Report.'

implementation of the FTA (2016 Report, p. 3). Almost parallel to the EU-Korea-FTA negotiations, a US-Korea agreement was negotiated, which also foresees investment protection, different from the EU-Korea FTA; therefore it can be stated that the EU-Korea FTA is one of the last agreements of a previous generation without a chapter on investment that was concluded.⁵²

Significant gains in exports from the EU were seen in machinery and appliances (HS 16), transport equipment (HS 17) and chemical products (HS 06) (2016 Report, p. 4). Trade in services has also seen significant growth with an 11% growth in EU exports to Korea and a 4% growth in EU imports from Korea (in 2014 compared to 2013) (2016 Report, p. 12). Overall, the EU-ROK FTA has so far shown ‘positive results’ for both the parties, but experts opine that the effects may not be permanent and can change. They also warn that assessing the impact of any FTA is difficult, since now major trade barriers are non-tariff instead of tariff barriers (Amighini 2016B).

After implementation of the FTA, the EU trade deficit with Korea has turned into a surplus and South Korea is also one of the EU’s top ten export markets. EU Commissioner for Trade, Cecilia Maelstrom has used the evidence of the agreement with Korea to justify that EU benefits from free trade.⁵³ A report by Forizs and Nilsson (2016) working for the EC shows that the growth in EU exports was even greater than projected, showing major gains for the EU. Keeping in view the need for updating the FTA in line with the latest FTA’s being signed, the DG Trade has targeted a launch of negotiations for revision of the EU-Korea FTA by 2020 that will also see the negotiation of a new investment chapter (DG Trade 2015).

Part IV Charting a new path for European trade ambitions and diplomacy in Asia

In the next few years, the EU will face a number of hurdles in setting up its Asian trade and investment agreements networks. The challenges range from dealing with the emergence of new intra-Asian trading groups such as the Regional Comprehensive Economic Partnership (RCEP) to the growth of Asian manufacturing giants which might challenge Europe’s core businesses and companies. Furthermore, the TPP which has some of the EU’s biggest trading partners on board will surely put increased pressure on the European leadership to bring about a strong strategy to negate the impact on the European economy. But Asia has already emerged as one of the bright spots in the EU trading relations with trade growing at an average of 6% over the last decade (Cameron 2014). It therefore is an essentiality that the EU builds a strong bridge with its Asian partners via trade agreements—bilateral, regional as well as multilateral ones—and uses a multipronged approach for the same. ‘Trade for all’ does not mean—to negotiate with all partners with one and the same concept. But the different EU approaches to deal with very different countries might consist of European diplomacy and humanitarian aid, resetting the trade relations with its Asian partners as well as also

⁵² A detailed discussion on the developments that led to the new model is available at Titi C (2015) International Investment Law and the European Union: Towards a New Generation of International Investment Agreements. EJIL. doi:<https://doi.org/10.1093/ejil/chv040>

⁵³ For a detailed overview of the EC claims, the press release on the success of the EU-ROK FTA can be accessed at europa.eu/rapid/press-release_IP-16-2356_en.htm (accessed 29 May 2017).

taking new steps to conclude free trade and investment agreements with its key trading partners. The following measures can be a part of the EU toolbox as it tries to cement its trade relations with Asia over the coming decade.

- Rejuvenating EU ASEAN Relations

At first glance, the EU accounted for more than 13% of ASEAN trade and was also the largest investor in the region (European Commission 2017a).⁵⁴ EU-ASEAN trade has also swelled with total trade standing at close to 208 billion euros with an average annual growth rate of 5.3% in the period 2012–2016.⁵⁵ The EU was the largest source of external FDI into the region with inflows at 23.3 billion euros in 2015 registering a 57% growth compared to the previous year (EEAS 2017a).⁵⁶

The trade numbers present an impressive but a very superficial picture. None of the ASEAN countries rank within the top nine trading partners of the EU. From the ASEAN's perspective, although the EU is its second largest trading partner, but total trade with the EU stands at 13.1% of its global exports, which is substantially less compared to China which has a 22.2% share and is expected to grow with the OBOR project just starting. This presents a scope for tremendous growth and the EU should pull out all stops to promote trade relations with this trade bloc which historically had strong relations with the EU.

Rejuvenating relations with this grouping can be the key to accessing markets of a number of TPP members. With its 'noodle bowl' of FTAs, ASEAN countries can also be a pit stop for further expansion for the EU companies (Weatherbee 2009). Among other factors, change in the trade policy of key ASEAN partners such as the USA and slowing growth in China could help the EU move back into the game and fill in the gaps arising from slowdown in trade with USA and China, as the rapidly developing ASEAN countries are keen to expand to new markets. The EU already has FTA discussions in advanced stages with a number of the Asian members of the TPP including Vietnam, Singapore, Malaysia and Japan.⁵⁷

The EU has already taken the right steps by fulfilling a number of ASEAN demands including the appointment of an Ambassador to ASEAN based at Jakarta starting September 2015. The EU Ambassador to the region has already expressed hope that the large number of EU supported projects such as ASEAN Regional Integration Support from the EU (ARISE), the EU-ASEAN Project on Intellectual Property Rights (ECAP III) and the ASEAN Air Transport Integration Project (AATIP) can aid in substantial development benefits for the region.⁵⁸ The Ambassador also stated that the

⁵⁴ A detailed overview of EU- ASEAN trade relations can be found at the European Commission's ASEAN page: <http://ec.europa.eu/trade/policy/countries-and-regions/regions/asean/> (accessed 29 May 2017).

⁵⁵ The EU-ASEAN trade statistics for year 2016 are available at http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113471.pdf (accessed 29 May 2017).

⁵⁶ The investment data has been released by the EEAS at https://eeas.europa.eu/headquarters/headquarters-homepage/21127/eu-asean-historical-high-says-eu-ambassador_en (accessed 29 May 2017).

⁵⁷ An official update from the European Commission about the Free Trade agreements under negotiation as on May, 2017 is available for download at http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf (accessed 30 May 2017).

⁵⁸ The statement of the EU Ambassador to ASEAN is available through the EEAS at https://eeas.europa.eu/headquarters/headquarters-homepage/21127/eu-asean-historical-high-says-eu-ambassador_en (accessed 29 May 2017).

trade negotiations have been pushed ahead and the new ASEAN FTAs with Vietnam and Singapore have been described as ‘game changers’ and the ‘most ambitious agreements ASEAN members ever concluded’.

Lastly, the stalling of the EU-ASEAN FTA talks in the past are ascribed to a variety of reasons including domestic pressure from European industries and fear of hindrance to the Doha negotiations (Astuto 2014). Others attribute it to the EU trying to maintain a delicate balance between its political and economic interests (Meissner 2016) and also to the then political situation in Myanmar and the issue of internal differences among the countries in ASEAN (Doan 2012). As these situations have been greatly resolved now, a suggestion for revisiting an EU-ASEAN FTA has also been put forward (Ji 2015). Encouraging news emerging from the recently concluded 2017 ASEAN-EU Business Summit at Manila suggests that steps have already been taken to try and implement the suggestion (Morales 2017).

- Targeted EU assistance for Asia

The goodwill for the EU is not limited to trade relations with the countries in Asia. The EU has assisted a number of Asian countries with development aid and the total aid is projected to be around EUR 6.5 billion during the period from 2014 to 2020 (Cameron 2014). This aid was focussed on a variety of topics ranging from energy security and climate change to promotion of human rights. However, the core focus area continues to be poverty eradication. Development aid can build goodwill for the EU in the region which continues to battle with new challenges like the refugee crisis in Thailand and Myanmar and high levels of poverty in a number of the countries.

- Use the ASEM platform for new initiatives

The Asia-Europe Meeting (ASEM) mechanism has been long underutilised by the EU and many scholars consider it in the present form as not being beneficial to the EU and a ‘*mere talking shop*’ (Cameron 2014). But considering the scale of the meetings and the fact that leaders from all major Asian and European powers come on one forum, it can indeed be used as a tool to mould popular opinion and build consensus on sensitive topics. Although, the question whether ASEM needs a secretariat and whether it needs to be formed as an international organisation based on a international treaty is debated and must be questioned, but it can still act as interconnection and networking forum (Hwee 2013). It has also been suggested that the ASEM forum can also be used to address areas of common concern such as terrorism and can also be used for building communication and security networks among the nations (Hwee 2013).

- Conclusion of negotiations for the EU-Japan FTA

The EU-Japan FTA has the potential to be a game changer as it will connect two large markets and two of the former most influencing three economic superpowers during the development of international trade law which today together make up a third of the world GDP. Japan is also the EU’s sixth largest trading partner and also a strategic partner in Asia (European Commission 2017c). The negotiations with Japan for the strategic partnership agreement and a comprehensive preferential trade accord

have been underway since 2013 (European Commission 2016). While the TTIP and the CETA (Comprehensive Economic and Trade Agreement) took centre stage, the negotiations with Japan have been going on relatively unnoticed (European Parliament 2017). However, the negotiations are no less important as Japan is one of the top trading partners while Canada ranks (only) 12th on the list. Japan holds immense trade potential for the EU as it is considered as one of the least penetrated markets in the OECD. Concerns remain about the fact that core negotiation documents have not been released for the FTA (Nakanishi 2017).

On a positive note, the EU has recently been taking all the right steps to move rapidly for a trade agreement with Japan and the eighteenth round of negotiations recently took place in Tokyo. Significant progress has been made but differences on core issues such as opening up of the agricultural sector (in Japan) as well as the automotive sector (in the EU), e-commerce, intellectual property and investment protection remain. It is however encouraging that both sides have committed to rapid conclusion of the negotiations (European Commission 2017b).⁵⁹

- Paving the road for a China-EU FTA

The negotiations for a China-EU BIT have been underway and both China and the EU consider it as a top priority for their governments. Scholars have however prescribed that an EU-China FTA can be a necessary next step in the future considering the ‘unprecedented FTA proliferation’ and also due to China being left behind from “mega-FTAs” such as the TPP and TTIP (Chi 2017). Chi (2017) opines that such a step will not be a one-off incident as China has in the past has generally used the ‘BIT to FTA’ approach to move ahead in trade negotiations. He also feels that unlike the WTO negotiations which left China behind, it will not like to be sidelined for future global trade and investment agreements.

Studies have already been conducted evaluating the feasibility of an EU-China FTA and the *Centre for European Policy Studies* opines that such an agreement will be ‘worthwhile’ and lead to ‘more than doubling’ of trade flows (CEPS 2016). The *China Institute for Reform and Development* also recommended an FTA and stated that ‘*With this choice China and EU will win at the turning point in the 21st century*’ (CIRD 2016).

Final remarks

The suggestions put forward above can be starting point for the EU in the region as it needs to move swiftly to build a strong footprint in Asia with ever changing global trade dynamics. Incidents such as Brexit and conflicts in the South China Sea along with the rise in protectionism may threaten to derail the European train in Asia. Nonetheless, in the future years of the ‘Asian century’, the EU cannot and does not ignore a region which will host the largest economies in the world and European diplomacy and rapid deal making holds the key to the EU’s success in unlocking the

⁵⁹ This was known through a Press release after a meeting between Commissioner Malmström and Japan’s Minister of Foreign Affairs. An online version of the Press release is available at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1625> (accessed 29 May 2017).

vast trade potential of the continent. On the contrary, the EU seems to follow individual roadmaps for every single subregion and country, in some cases taking investment law as a stepping stone for future trade negotiations (China, maybe Hong Kong⁶⁰ and Taiwan), in other cases either negotiating comprehensive economic agreements right away, or supplementing already existing trade agreements with investment chapters at a later stage.

References

- Ahnlid A (2012) The EU meeting the Asian trade challenge—from follower to forerunner. In: Oxelheim L (ed) *EU-Asia and the re-polarization of the global economic arena*, 1st edn. World Scientific Publishing Company, Singapore, pp 95–124
- Amighini A (2016a) EU external trade strategy vis-à-vis Asia. European Parliament. http://www.ispionline.it/DOC/eu_asia_2.pdf. Accessed 4 May 2017
- Amighini A (2016b) Implementation of the EU-Republic of Korea FTA. European Parliament. http://www.ispionline.it/DOC/EU_Parl_EU-ROK_3.pdf. Accessed 4 May 2017
- Anderlini J (2014) Chinese investors surged into EU at height of debt crisis. *The Financial Times*. <https://www.ft.com/content/53b7a268-44a6-11e4-ab0c-00144feabdc0>. Accessed 8 March 2017
- Astuto M (2014) EU-ASEAN free trade agreement- negotiations. ISPI Analysis. http://www.ispionline.it/it/documents/Analysis_26_2010.pdf. Accessed 18 May 2017
- Beesley A (2017) EU-Singapore investment deal requires member state ratification, rules ECJ. *The Financial Times*. <https://www.ft.com/content/9a0c9d04-9c6d-34f8-a7e2-dba202d29c25>. Accessed 16 May 2017
- Binder K (2016) The Trans- Pacific Partnership (TPP) - potential regional and global impacts. European Parliament. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/582028/EPRS_BRI\(2016\)582028_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/582028/EPRS_BRI(2016)582028_EN.pdf). Accessed 14 May 2017
- Bullis D (1997) *Selling to India's consumer market*. Greenwood, Westport
- Bungenberg M (2010) Going global? The EU common commercial policy after Lisbon. In: Herman C, Terhechte J P (eds) *European yearbook of international economic law*, 1st edn. Springer, Heidelberg, pp 123–152
- Cameron F (2013) EU-Asia relations: a new start? Policy Brief, Norwegian Institute of International Affairs. <https://brage.bibsys.no/xmlui/bitstream/handle/11250/192586/NUPI%20Policy%20Brief-17-13%20Cameron.pdf?sequence=3&isAllowed=y>. Accessed 10 May 2017
- Cameron F (2014) The EU's pivot to Asia. *World Commerce Rev* 8:64–65
- CARIS (2007) *Qualitative analysis of a potential free trade agreement between the European Union and India*, annex, vol 4. CARIS, Sussex
- CEPS (2016) *Tomorrow's Silk Road: assessing an EU-China Free Trade Agreement*. Centre for European Policy Studies. https://www.ceps.eu/system/files/EUCHINA_FTA_Final.pdf. Accessed 10 May 2017
- Chi M (2017) The China-EU BIT as a stepping stone towards a China-EU FTA: a policy analysis. In: Bungenberg M, Krajewski M, tams C, Terhechte J P, Ziegler A R (eds) *European yearbook of international economic law*, 8th edn. Springer, Heidelberg, upcoming
- Chun Lee R (2017) EU-Taiwan: new partners in international trade negotiations. In: Bungenberg M, Krajewski M, tams C, Terhechte J P, Ziegler A R (eds) *European yearbook of international economic law*, 8th edn. Springer, Heidelberg, upcoming
- CIRD (2016) *ChinaEU FTA—a decisive option for deepening ChinaEU cooperation by 2020*. CIRD, Hainan
- Ciurtin H (2016) Across the strait: the case for a special EU-Taiwan trade and investment partnership. European Federation for Investment Law and Arbitration Blog. <https://efilablog.org/2016/05/03/across-the-straitthe-case-for-a-special-eu-taiwan-trade-and-investment-partnership/>. Accessed 2 March 2017
- Conrad A, Kostka G (2017) Chinese investments in Europe's energy sector: risks and opportunities? *Energy Policy* 101:644–648. <https://doi.org/10.1016/j.enpol.2016.12.016>

⁶⁰ A possibility for a prospective EU-Hong Kong Bilateral Investment Agreement was expressed by Vincent Piket, the Head of the European Union Office to Hong Kong in his article “EU-HK ties have a great future” published online on 16 May 2016 in *China Daily Asia* and available for access at http://www.chinadailyasia.com/opinion/2016-05/16/content_15432775.html (last accessed 30 May, 2017).

- Cui H (2016) The belt and road initiative and its impact on Asia-Europe connectivity. China Institute for International Studies. http://www.ciis.org.cn/english/2016-07/21/content_8911184.htm. Accessed 6 March 2017
- DFAT (2017) Regional comprehensive economic partnership. Department of Foreign Affairs and Trade, Australia. <http://dfat.gov.au/trade/agreements/rcep/pages/regional-comprehensive-economic-partnership.Aspx>. Accessed 4 March 2017
- Directorate General for Trade (2017a) European Union, Trade with India. Directorate General for Trade, European Commission. http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113390.pdf. Accessed 12 February 2017
- Directorate General for Trade (2017b) European Union, Trade with World. Directorate General for Trade, European Commission. http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113471.pdf. Accessed 2 March 2017
- Doan XL (2012) Opportunities and challenges in EU-ASEAN trade relations. EU-Asia Centre. www.asiacentre.eu/pub_details.php?pub_id=60. Accessed 12 March 2017
- EEAS (2017a) EU-ASEAN at historical high, says EU ambassador. European Union External Action Service. https://eeas.europa.eu/headquarters/headquarters-homepage/21127/eu-asean-historical-high-says-eu-ambassador_en. Accessed 12 March 2017
- EEAS (2017b) Myanmar (Burma) and the EU. European Union External Action Service. https://eeas.europa.eu/delegations/myanmar-burma/1569/myanmar-burma-and-eu_en. Accessed 4 March 2017
- European Commission (2012) The EU accedes to Treaty of Amity and Cooperation in Southeast Asia. European Commission. http://europa.eu/rapid/press-release_IP-12-781_en.htm. Accessed 4 March 2017
- European Commission (2016) Report of the 17th EU-Japan FTA/EPA negotiating round Brussels, 26–30 September 2016. European Commission. http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc_155060.pdf. Accessed 28 February 2017
- European Commission (2017a) Association of South East Asian Nations (ASEAN). European Commission. <http://ec.europa.eu/trade/policy/countries-and-regions/regions/asean/>. Accessed 4 March 2017
- European Commission (2017b) Commissioner Malmström and Japan's Minister of Foreign Affairs confirm commitment for an early conclusion of EU-Japan FTA negotiations. <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1625>. Accessed 28 February 2017
- European Commission (2017c) Japan. European Commission. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/japan/>. Accessed 2 March 2017
- European Commission (2017d), Myanmar (Burma). European Commission. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/myanmar/>. Accessed 9 March 2017
- European Parliament (2017) After CETA: the EU trade agreements that are in the pipeline. European Commission. <http://www.europarl.europa.eu/news/en/news-room/20161014STO47381/after-ceta-the-eu-tradeagreements-that-are-in-the-pipeline>. Accessed 5 March 2017
- Forchielli E (2015) Chinese investment in the EU: a challenge to Europe's economic security. The German Marshall Fund of the United States. <http://www.gmfus.org/file/3579/download>. Accessed 4 March 2017
- Foriz V, Nilsson L (2016) Trade effects of the EU-Korea free trade agreement: a comparative analysis of expected and observed outcomes. European Commission, Brussels
- Garcia-Herrero A, Xu J (2016) Trump could give new impetus to EU-China relations. Bruegel. <http://bruegel.org/2016/11/trump-could-give-new-impetus-to-eu-china-relations/>. Accessed 9 March 2017
- Gilson J (2012) The Asia-Europe Meeting (ASEM). In: Beeson M, Stubbs R (eds) Routledge handbook of Asian regionalism. Routledge, New York, pp 394–405
- Grieger G (2016) One Belt, One Road (OBOR): China's regional integration initiative. European Parliamentary Research Service. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586608/EPRS_BRI\(2016\)586608_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586608/EPRS_BRI(2016)586608_EN.pdf). Accessed 14 May 2017
- Groff SP (2012) Will this be the 'Asian century'?. The Guardian. <https://www.theguardian.com/globaldevelopment/poverty-matters/2012/apr/18/asia-century-globalisation-success-governance>. Accessed 23 February 2017
- Hanemann T, Rosen DH (2012) China invests in Europe patterns, impacts and policy implications. Rhodium Group, New York
- Hwee YL (2013) Towards a dynamic Asia-Europe meeting. EU Centre in Singapore, Singapore
- Islam S (2014) On track for ASEM reform. ASEM Infoboard. <http://www.aseminfoboard.org/press/track-asem-reform>. Accessed 5 March 2017
- Ji X (2015) Time to revisit an ASEAN-EU FTA?. The diplomat. <http://thediplomat.com/2015/06/time-to-revisit-an-asean-eu-fta/>. Accessed 4 March 2017
- Kerneis P, Lamprecht P, Messerlin P (2016) The case for a deep and comprehensive bilateral investment agreement. European Services Forum, Brussels

- Khandekar G (2013) EU-Asia trade: in need of a strategy. FRIDE. http://fride.org/download/PB_13_EU_Asia_trade.Pdf. Accessed 12 February 2017
- Marchi L (2014) Unmovable or compromising? The European Union vis-à-vis Myanmar via EU-ASEAN: continuity and changes. LSE, London
- Meissner KL (2016) A case of failed interregionalism? Analyzing the EU-ASEAN free trade agreement negotiations. *Asia Eur J* 14:319–336
- MFAT (2017) Trans-Pacific partnership. Ministry of Foreign Affairs and Trade New Zealand. <https://www.tpp.mfat.govt.nz/>. Accessed 3 March 2017
- Ministry of Foreign Affairs, Taiwan (2013) European Parliament adopts resolution on EU-Taiwan economic and trade relations, supports bilateral investment agreement. Ministry of Foreign Affairs, Taiwan. http://www.mofa.gov.tw/en/News_Content.aspx?n=539A9A50A5F8A_F9E&s=2F9848735B99A0C2. Accessed 12 March 2017
- Mishra AR (2016) Breakthrough unlikely in stalled India-EU free trade agreement negotiations. *The Live Mint*. <http://www.livemint.com/Politics/TjPyP4XTzWOTuKqJWDHTFJ/Breakthrough-unlikely-installed-IndiaEU-free-trade-agreeme.html>. Accessed 4 March 2017
- Morales NJ (2017) EU and ASEAN agree to put free trade pact back on agenda. *Reuters*. <http://www.reuters.com/article/us-eu-asean-idUSKBN16H0S7>. Accessed 12 March 2017
- Nakagawa J (2011) A comparison of the FTA strategies of Japan and China and their implications for multilateralism. Indiana University, Bloomington, USA
- Nakanishi Y (2017) Characteristics of EU Free Trade Agreements in a legal context: a Japanese perspective. In: Bungenberg M, Krajewski M, tams C, Terhechte J P, Ziegler a R (eds) *European yearbook of international economic law*, 8th edn. Springer, Heidelberg, upcoming
- Pacheco Pardo R (2013) EU-East Asia relations: effects of the global financial and eurozone debt crises. *PERCEPTIONS* 18(1):33–52
- Parker E (2016) Myanmar's opening: doing business in Asia's final frontier. *The diplomat*. <http://thediplomat.com/2016/11/myanmars-opening-doing-business-in-asias-final-frontier/>. Accessed 12 March 2017
- Peel M (2013) Western companies 'too slow' into Myanmar, warns adviser. <https://www.ft.com/content/7fc04508-4c2d-11e3-958f-00144feabdc0>. *Financial times*. Accessed 12 March 2017
- Shi Z (2016) China-EU relations: crisis and opportunity. *The diplomat*. <http://thediplomat.com/2016/03/china-eu-relations-crisis-and-opportunity/>. Accessed 26 March 2017
- Shixue J (2013) Chinese investment in the EU: a win-win game a view from China. European Policy Centre, Brussels
- Simmons and Simmons (2015) Briefing on China's "One Belt, One Road" Initiative - New Silk Road Initiative for Inter-continental Growth. *Iber China*. http://www.iberchina.org/files/2016/obor_simmons.pdf. Accessed 6 March 2017
- Singh RK, Priya P (2014) What's holding back the India-EU FTA?. *The diplomat*. <http://thediplomat.com/2014/06/whats-holding-back-the-india-eu-fta/>. Accessed 4 March 2017
- Slater J (2003) Outward investment from China. In: Strange R, Krajewski M, Slater J, Wang L (eds) *Trade and investment in China: the European experience*. Routledge, New York, pp 269–283
- Smith D (2017) Trump withdraws from trans-Pacific partnership amid flurry of orders. *The Guardian*. <https://www.theguardian.com/us-news/2017/jan/23/donald-trump-first-orders-trans-pacific-partnership-tpp>. Accessed 12 February 2017
- Snively B (2017) It's official policy now: trump to renegotiate NAFTA. *Detroit free press*. <http://www.freep.com/story/money/cars/2017/01/20/donald-trump-nafta-agreement-trade/96853024/>. Accessed 2 March 2017
- Solis M (2011) Globalism ascendant, Regionalis StagnantL Japan's response to the global financial crisis. In: Bergejik PAG, Okano-Heijmans M, Melissen J (eds) *Economic diplomacy: economic and political perspectives*. Martinus Nijhoff, Leiden, pp 37–63
- Suzuki H (2015) From backdoor-opening to concluding "real" free trade agreements? : Japan's free trade policy towards the US, the EU and Latin American countries. *Eur Union Stud Assoc Fourth Biennial Conf Boston* 2015:1–13
- The Economist (2015) Gone shopping. *The Economist*. <http://www.economist.com/news/business/21647331-more-european-businesses-are-coming-under-chinese-ownership-gone-shopping>. Accessed 9 March 2017
- Trade DG (2015) Strategic plan 2016–2020. European Commission, Brussels
- Vandewalle L, Saarela A (2016) EU-India relations—keeping up the momentum needed for a vital strategic partnership. European Parliament. [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/570471/EXPO_IDA\(2016\)570471_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/570471/EXPO_IDA(2016)570471_EN.pdf). Accessed 4 May 2017

- Vicziany M (2015) Why European cows are the envy of poor Indian farmers. In: Winand P, Vicziany M, Datar, P (eds) *The European Union and India: rhetoric or meaningful partnership?*. Edward Elgar, Cheltenham, pp 203–238
- Weatherbee DE (2009) *International relations in Southeast Asia: the struggle for autonomy*. Rowman and Littlefield, Maryland
- Xiang B (2017) Feature: Europe shares benefits brought by Belt & Road Initiative. Xinhuanet. http://news.xinhuanet.com/english/2017-05/10/c_136271970.Htm. Accessed 16 May 2017