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Living Apart Together: EU Comprehensive Security from a Trade Perspective

Fabienne BOSSUYT, Lotte DRIEGHE &
Jan ORBIE^{*}

In contributing to the debate on the European Union (EU)'s comprehensive approach to security, this article examines the structural-operational interface between trade and security. It hypothesizes that the challenge of comprehensive security to combine structural activities with operational measures is most pronounced in the trade-security interface. As the oldest, most integrated and most powerful external policy domain of the EU, trade policy has acquired a high degree of institutional autonomy, operates according to its own logic and standard procedures and has a distinct organizational esprit de corps. This inhibits the integration of the EU's trade policy into the more comprehensive security portfolio.

To operationalize this hypothesis, the article empirically explores the coherence between EU trade and security discourses and the extent to which trade measures have been used for security policy ends, as envisaged in the 2003 European Security Strategy. The empirical analysis confirms the hypothesis that coherence between the trade and security areas is limited, and that this relates to the institutional insulation of the EU trade policy sphere. However, the findings reveal that external factors, such as international trade law and preferences of the trade partners, should also be considered to further explain the relatively limited coherence between EU trade and security.

1 INTRODUCTION

In contributing to the debate on the European Union (EU)'s comprehensive approach to security, this article examines the interface between trade and security. More specifically, it explores the coherence between EU trade and security discourses and the extent to which trade measures have been used for security policy ends, as envisaged in the 2003 European Security Strategy (ESS), which states that trade policy should 'follow the same agenda' as the EU's security policy.¹ As conceptualized by Gebhard and Norheim-Martinsen, the trade-security nexus is one of the three 'structural-operational interfaces' in the EU's comprehensive approach towards security, alongside the security-development

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¹ European Council, *European Security Strategy - A Secure Europe in a Better World* 3 (12 Dec. 2003).

nexus (see Merket in this issue) and the foreign policy-security nexus (see Smith in this issue).² Several authors have pointed out that in the interface between the structural and the operational, the EU stands out from other organizations and their approach to comprehensive security because of the broad set of military, political and economic tools that the EU can use for security-related purposes.³ At the same time, the exceptional nature of the EU, and in particular, its institutional design, poses limits to the way and extent to which structural measures can be combined with operational instruments, most notably due to the pillar divide that has long separated Common Foreign and Security Policy (CFSP) from Community activities, and which de facto continues to exist despite the formal depillarization introduced under the Lisbon Treaty.⁴ The pursuit and implementation of a comprehensive security agenda requires the coordination of a large number of institutional actors and policies across bureaucratic, organizational and functional boundaries. However, the complex multi-level structure and compartmentalized nature of the EU's external policy framework poses an intricate challenge for this kind of coordination. It is not a coincidence, therefore, that recent efforts at strengthening the EU's capacity to act as a single actor externally are mostly concerned with the enhancement of institutional coherence. Paradoxically, as Van Elsuwege points out, 'the new Treaty provisions do not solve the complex dichotomy between CFSP and non-CFSP actions and even increase the potential for inter-institutional conflicts'.⁵

Importantly, there is also an ideational aspect to the institutional fragmentation. For comprehensive security to be provided at the interface between the structural and the operational, the two sides should be connected and should be considered by the policy-makers and practitioners involved as two tasks subscribing to the same functional aim. In reality, however, the extent to which the structural and operational sides align their positions to a common goal is constrained by the tension that emerges from two competing logics of interaction, i.e., the logic of intergovernmental cooperation and the integrationist logic respectively, which each follow a different finalité.⁶ The fact that the two sides are driven by different interests and objectives, and that they each follow their own

² C. Gebhard & P. Norheim-Martinsen, *Making sense of EU comprehensive security towards conceptual and analytical clarity*, 20 *European Security* 2, 232 (2011).

³ *Ibid.*, 222 and 231; E. Gross, *EU and the comprehensive approach*, DIIS Report 13, 9–10 (Danish Inst. Int'l Stud. 2008); S. Biscop & V. Arnould, *Global public goods: an integrative agenda for EU external action*, in *Effective multilateralism: Europe, regional security and a revitalised UN* 22–31 (E.B. Eide ed., Foreign Policy Centre 2004).

⁴ Gebhard & Norheim-Martinsen, *supra* n. 2, at 222; Gross, *supra* n. 3, at 9–10; P. Van Elsuwege, *EU External Action after the Collapse of the Pillar Structure: In Search of a New Balance between Delimitation and Consistency*, 47 *CML Rev.* 4, 987–1019 (2010).

⁵ Van Elsuwege, *supra* n. 4, at 988.

⁶ Gebhard & Norheim-Martinsen, *supra* n. 2, at 232.

logic and standards of procedures makes it difficult for institutional actors (e.g., *DG Trade v. European External Action Service*) and political leaders (e.g., *trade ministers v. defence ministers*) to agree on the priorities to achieve common goals. This does not only hold true for efforts at inter-pillar coordination but also for intra-pillar activities, as shown for instance by Pilegaard's historical-institutionalist study of the trade-development nexus.⁷

Based on the insights provided above, this article hypothesizes that the challenge of comprehensive security to combine structural activities with operational measures is most pronounced in the trade-security interface. As the oldest, most integrated and most powerful external policy domain of the EU, trade policy has acquired a high degree of institutional autonomy, operates according to its own logic and standard procedures and has a distinct organizational *esprit de corps*. This inhibits the integration of the EU's trade policy into the more comprehensive security portfolio. In operationalizing this hypothesis we examine the extent to which trade measures have been used for security policy ends by focusing on the politico-strategic level of the EU system (as compared to the operational and the tactical level, see introduction article of this special issue). At the politico-strategic level, security comprehensiveness is primarily a matter of horizontal coherence,⁸ i.e., coherence between the different dimensions of the EU's external action. In the scholarly literature, 'coherence' is generally conceptualized as denoting both the absence of contradictions between different areas of external policy and the establishment of a synergy between them.⁹ In policy terms, 'coherence' thus refers to the duty of ensuring synergy between the different fields of the EU's external action; it implies (a matter of quality of) interaction between different organizational entities.¹⁰ From this perspective, the article is thus concerned with horizontal coherence between the EU's trade and security policies, from the angle of EU trade activities. Accordingly, we hypothesize that coherence between the two policy areas is limited to the extent that synergetic interaction between the two realms is difficult or even absent.

The article is structured as follows. First, we further set out the theoretical-analytical contours of the article, and operationalize the central hypothesis by drawing on the extant literature on the concept of coherence. In the second section, we analyse the trade and security strategies to assess the coherence between the two policy areas at the discursive level. Next, we explore the main

⁷ J. Pilegaard, *An institutionalist perspective of EU trade and development policies in the context of the EPA negotiations*, in *Beyond Market Access for Development: EU-Africa Relations in Transition* 263–276 (G. Faber & J. Orbie eds., Routledge 2007).

⁸ Gebhard & Norheim-Martinsen, *supra* n. 2, at 236.

⁹ P. Gauttier, *Horizontal coherence and the external competencies of the European Union*, 10 *European L. J.* 1, 23, 26 (2004); C. Gebhard, *Coherence*, in *International Relations and the European Union* 106 (C. Hill & M. Smith eds., Oxford U. Press 2011); Van Elsuwege, *supra* n. 4, at 1013–1014.

¹⁰ Gebhard, *supra* n. 9, at 106

topics and activities on the EU trade agenda of the last decade, including the negotiations of Economic Partnership Agreements (EPAs) with African partner countries, the EU's Generalized System of Preferences (GSP) and the new generation of Free Trade Agreements (FTAs) with partner countries in Asia, in order to examine the extent to which trade instruments have been used for the purpose of foreign and security policy objectives. Methodologically, the examination is based on a triangulation of document analysis, a literature review and interviews. The empirical analysis confirms the hypothesis that coherence between the trade and security areas is limited, and that this relates to the institutional insulation of the EU trade policy sphere. However, as will be highlighted in the concluding section, the findings reveal that external factors, such as international trade law and preferences of the trade partners, should also be considered. To further explain the relatively limited coherence between EU trade and security one must move beyond the internal-institutional setting of the EU.

2 THEORETICAL-ANALYTICAL CONTOURS: THREE FACES OF COHERENCE

Nuttall identifies three different interpretations – or faces – of coherence; apart from being 'benign', coherence can also be 'neutral' or even 'malign'.¹¹ The neutral interpretation refers to the absence of contradiction between policies. 'Benign coherence', in turn, points to a desirable, positive way of interaction between two policy areas and their respective bureaucracies, bound to the 'service of a common purpose'. 'Malign coherence', by contrast, relates to conflicts arising in the case of competing policy objectives, pillarized bureaucratic cultures and the struggle for institutional power, so-called 'turf battling' between rivalrous institutions.¹²

Following Nuttall's typology and analytical distinction, we expect that horizontal coherence between the EU trade and security spheres will be neutral at best. Put differently, if there is coherence in the trade-security nexus, it will consist merely of an absence of contradictions between the two areas rather than of the establishment of a synergy between them and an alignment around the same goals. We assume that this is due to the institutional compartmentalization and the cross-pillar divide of the EU system of external policy, with DG Trade being a highly autonomous sub-system. The powerful position that the EU's trade policy machinery has acquired in the EU's institutional architecture means that it acts fairly independently from the other DGs, and that its activities cannot easily be

¹¹ S. Nuttall, *Coherence and consistency*, in *International Relations and the European Union* 96–97 (C. Hill & M. Smith eds., Oxford U. Press 2005).

¹² *Ibid.*, 96–97; Gebhard, *supra* n. 10, at 111–112.

influenced by other parts of the EU's external relations policy structure, including the CFSP.

Moreover, we assume that this continues to be the case in the post-Lisbon context. Even if it could be argued that the Lisbon Treaty has strengthened the political dimension of EU trade policy, e.g., by stating that '[t]he common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action' (Article 207(1) TFEU)¹³, and even if it was one of the major ambitions of the Lisbon Treaty to reduce the institutional compartmentalization inhibiting coherence, the institutional autonomy of DG Trade has been kept virtually intact, with trade being left outside of the new institutional configurations of the EU's external action portfolio. DG Trade does not fall under the competence of the newly established EEAS and the High Representative of the Union for Foreign Affairs and Security Policy – the two key institutional innovations aimed at fostering increased coherence. Under the Treaty, for instance, the High Representative chairs the meetings of the Foreign Affairs Council, except when it is dealing with commercial policy issues, in which case the rotating Presidency takes over the chair. This suggests that the institutional walls between the trade and the security domains are likely to remain high even after the Lisbon Treaty.

In addition, we hypothesize that the inhibiting impact of this institutional fragmentation is reinforced by an ideational element, since the trade and the security sub-systems each operate according to their own logic and standard procedures and have an opposing organizational esprit de corps (see *supra*). Indeed, the institutional tensions that behold the trade-security nexus, and the nexus between trade and foreign policy in general, reflect the basic tension that exists between the views of trade purists (including trade policy-makers) and foreign policy specialists (including diplomats). 'For purists, EU foreign policy objectives intrude, as they should not, on trade policy, which should be used narrowly to defend European economic interests.'¹⁴ EU trade policy-makers seem to assume that trade is too blunt an instrument to address complex foreign policy and security issues, and that it may even be counterproductive when used for other purposes. Foreign policy experts, by contrast, consider trade as a policy tool through which the EU conducts a 'structural' foreign policy, 'which seeks to shape the structure of international society – and allows the Union to act as a 'civilian power', which uses non-military, mostly economic power in pursuit of its foreign

¹³ See e.g., F. Hoffmeister, *The European Union's common commercial policy a year after Lisbon – Sea change or business as usual?*, in *The European Union's External Relations a Year after Lisbon*, CLEER Working Papers 3 (P. Koutrakos ed., 2011).

¹⁴ J. Peterson, *EU Trade Policy as Foreign Policy: Does Strategy plus Activity = Strategic Action?* Paper presented at the Biennial EUSA Conference, Montreal, 17–19 May (2007).

policy objectives'.¹⁵ All this points to the historically grown institutional fragmentation between the supranational logic of (former) first pillar areas and the intergovernmental logic of (former) second pillar areas. Since trade and security policy represent the most ideal typical cases of both logics – trade being an exclusive competence with large discretion for the Commission, security being of an intergovernmental nature without much involvement of the European Commission – we expect coherence between them to be limited.

In what follows, we will examine these assumptions and expectations using the above introduced typologies and analytical distinctions. In assessing the extent to which trade measures have served to pursue security policy objectives, we start with an analysis of the EU's discourse on trade and security. By considering both the ESS¹⁶ as formulated in 2003 and revised in 2008¹⁷ and the EU's external trade strategies of 2006¹⁸ and 2010¹⁹, the coherence at the discursive level between both areas is examined. Next, we go beyond the discourse to explore the extent to which actual trade instruments have been used in pursuit of foreign and security policy goals.

3 COHERENCE BETWEEN THE EU TRADE AND SECURITY STRATEGIES

When exploring EU trade and security strategies, some striking similarities emerge at the discursive level. At first sight, the strategies pertaining to these two dimensions of Europe's international role seem surprisingly coherent. While the ESS sketches an ambitious agenda and approach that goes far beyond a narrow definition of security, the EU's trade discourse suggests that trade relations are no longer just concerned with economic objectives and embraces an equally broad approach.²⁰ Both the trade and security strategies envisage a comprehensive set of objectives whereby short-term 'possession goals' are combined with long-term 'milieu goals'.²¹ They also share a preference for multilateralism combined with attempts to externalize the European model of regional integration.

¹⁵ *Ibid.*

¹⁶ European Council, *supra* n. 1.

¹⁷ European Council, *Report on the Implementation of the European Security Strategy: Providing Security in a Changing World* (11 Dec. 2008).

¹⁸ European Commission, *Global Europe: Competing in the World: a Contribution to the EU's Growth and Jobs Strategy*, COM (2006) 567 final.

¹⁹ European Commission, *Trade, Growth and World Affairs*, COM (2010) 61 final.

²⁰ European Council, *supra* n. 1; European Council, *supra* n. 16.

²¹ K.E. Smith, *EU foreign policy in a changing world* (Polity 2003).

The EU's enhanced security capabilities have been considered as part of its 'civilian power' role.²² The broad ambitions and instruments of the ESS, and its focus on non-traditional aspects of security such as 'human security', are widely illustrated in the literature.²³ In a similar vein, since the late 1990s, trade is not considered as a goal in itself, but rather as a tool in the EU's civilian or normative power agenda. The trade instruments are presented as crucial devices to 'harness globalization'.²⁴

More generally, both the trade and security discourses seem embedded in the EU's self-conception as a 'normative power' in the world.²⁵ Interestingly, the Lisbon Treaty seems to further strengthen the coherence between the EU's trade and foreign and security policy goals along the lines of a Civilian/Normative Power Europe Trade Normative Power Europe role.

However, the question is whether growing coherence between these aims and approaches also means that the trade and security realms have become more integrated, and thus, that the trade-security nexus goes beyond a mere absence of contradictions (cf. neutral coherence) to include objectives of creating positive interactions or synergies around a common purpose (cf. benign coherence). In order to examine this, we investigate whether the respective discourses include any direct cross-references.

Starting with the discourse of the security domain, both the ESS of 2003 and the Report on the Implementation of the ESS of 2008 include a number of direct cross-references to trade. However, most of these linkages are rather vague.²⁶ 'Trade' is mentioned as part of a long list of instruments and objectives: 'the full spectrum of instruments for crisis management and conflict prevention at our disposal, including political, diplomatic, military and civilian, trade and development activities' and 'each situation requires coherent use of our instruments, including political, diplomatic, development, humanitarian, crisis response, economic and trade cooperation'.²⁷ The strategy also contains a more

²² H. Larsen, *The EU: A Global Military Actor?* 37 *Cooperation & Conflict* 3, 283–302 (2002); S. Stavridis, 'Militarising' the EU: *The concept of civilian power Europe revisited*, 36 *Int'l Spectator* 4, 43–50 (2001).

²³ European Council, *supra* n. 1; European Council, *supra* n. 16; S. Biscop, *The European security strategy* (Ashgate 2005); M. Kaldor, M. Martin & S. Selchow *Human security: A new strategic narrative for Europe*, 83 *Int'l Affairs* 2, 273–288 (2007).

²⁴ A. Van den Hoven, *Assuming Leadership in Multilateral Economic Institutions*, 27 *West European Politics* 2, 256–83 (2004); S. Meunier, *Trading Voices: The European Union in International Commercial Negotiations* (Princeton U. Press 2007); J. Orbie, *Europe's Global Role: External Policies of the EU* (Ashgate 2008).

²⁵ Compare I. Manners, *Normative Power Europe: A contradiction in terms?*, 40 *J. Com. Mkt. Stud.* 2, 235–58 (2002). For more on this argument, see J. Orbie, L. Drieghe & F. Bossuyt, *EU trade policy and the European Security Strategy: Speaking the same language in different worlds*, 65 *Studia Diplomatica* 3, 3–24 (2012).

²⁶ European Council, *supra* n. 1; European Council, *supra* n. 16; This is even more so in the case of the ESS 2008 compared with the ESS 2003.

²⁷ European Council, *supra* n. 1, at 11; European Council, *supra* n. 16, at 9.

explicit reference to coherence between security and trade, formulated in military language: ‘Diplomatic efforts, development, trade and environmental policies should follow the same agenda. In a crisis there is *no substitute for unity of command*.’²⁸ Moreover, the ESS considers trade (and development) policies as ‘powerful tools for promoting reform’ in developing countries, in particular through encouraging good governance and respect for human rights.²⁹ In addition, the ESS raises the importance of external trade policy in pursuing effective multilateralism, with the WTO being highlighted as a ‘key institution in the international system’, in which the EU has ‘an interest in further developing’.³⁰ The completion of the Doha Development Round is emphasized as a key priority.³¹

There is, however, no specific elaboration in the security strategy on how trade could contribute to security objectives. There is only a loose understanding that trade is one of the EU’s most important external instruments, and should thus be involved in pursuing the ESS objectives.³² The ESS contains only one reference to ‘conditionality and targeted trade measures’, suggesting a role for trade sanctions. Yet, there is no explicit mentioning of either the position of trade sanctions in the EU’s foreign and security policy framework, or of how and when they should be applied. Equally, there is no reference to the EU’s bilateral trade agreements (e.g., EPAs) or to its unilateral trade systems (e.g., GSP).³³

The EU’s trade policy discourse, in turn, displays a number of references to security objectives, but, equally, these are mostly rather imprecise. There is a common assumption that pursuing free trade in a regulated way and through multilateral institutions will contribute to security by addressing the underlying causes of insecurity. Trade is not only about economic interests and exchanges, but also about stability and welfare. As stated in the Global Europe strategy:

Progressive trade opening is an important source of productivity gains, growth and job creation. It is an essential factor in reducing poverty and promoting development, with the potential in the longer term to help address many of the underlying factors which drive the global challenges we face, from security to migration to climate change.³⁴

The strategy also contains a brief reference to the Kimberley Process on trade restrictions for blood diamonds, stipulating that ‘unless justified for security or environmental reasons, restrictions on access to resources should be removed’.³⁵

²⁸ European Council, *supra* n. 1, at 13, emphasis added.

²⁹ *Ibid.*, 10.

³⁰ *Ibid.*, 9 and 10.

³¹ European Council, *supra* n. 16, at 12.

³² European Council, *supra* n. 1; European Council, *supra* n. 16.

³³ European Council, *supra* n. 1, at 10.

³⁴ European Commission, *supra* n. 18, at 6.

³⁵ *Ibid.*, 7.

However, there is no specification of the integration of the EU's new instruments and objectives in the realm of security, on the one hand, and the EU's trade instruments, on the other. Moreover, the document does not mention the EU's security strategy and the idea of human security, let alone elaborates on the possible role of trade in the context of European security operations in the EU's neighbourhood or in Africa.³⁶

References to the trade-security linkage are equally shallow in the 'Trade, Growth and World Affairs' document, which presents the Commission's latest trade policy strategy. Still, unlike the 'Global Europe' document, the new trade strategy dedicates an entire section to the link between trade and external relations, which upholds that 'the Union's trade and foreign policies can and should be mutually reinforcing'.³⁷ This is clearly linked to the entry into force of the Lisbon Treaty, which is the first EU Treaty to stipulate that the common commercial policy 'shall be conducted in the context of the principles and objectives of the Union's external action'.³⁸ Nevertheless, there is little or no elaboration in the strategy on how exactly the EU's trade and security policies could be used coherently, except from the concrete reference to the EU's export control system of dual-use goods. Explicitly stating that the export control system 'serves a foreign policy-security goal', the strategy announces that the Commission 'will continue to develop export control measures aimed at simplifying and making the business environment more transparent for EU exporters, which at the same time contribute to strengthening international security efforts'.³⁹

To conclude, while a cursory reading of the EU's discourse uncovers apparent parallels between its trade and security strategies and points to a vague intention to pursue synergetic/benign coherence, the lack of strong cross-references suggests that coherence between the two fields at the discursive level is mostly 'neutral'. In the next section, we move beyond the *discursive* level to explore and assess the coherence between the *actual* activities of the trade and security policies. In particular, we scrutinize the EU's main trade activities of the last decade, at the multilateral, bilateral and unilateral level.

³⁶ *Ibid.*

³⁷ European Commission, *supra* n. 19, at 15.

³⁸ Art. 207(1) TFEU.

³⁹ European Commission, *supra* n. 19, at 15.

4 TRADE AS A SECURITY POLICY INSTRUMENT

4.1 THE MULTILATERAL LEVEL

The multilateral trade forum has always been a priority for the EU's trade policy. In the past fifteen years, the WTO negotiations have been by far the most important forum for the EU's trade policy machinery. However, while the EU has promoted a broad agenda in the context of the Doha Development Round, the EU's WTO strategy is largely disconnected from its security objectives, not considering the vague reference in the ESS to the WTO's role in the EU's pursuit of effective multilateralism.⁴⁰ Similarly, the WTO is not directly concerned with security issues, and trade in arms has always been excluded from the GATT treaties for reasons of national security.⁴¹ However, the EU has played a leading role in the negotiations at the UN on an Arms Trade Treaty, which aims at establishing high common standards for international trade in conventional arms.⁴²

The link between Europe's WTO agenda and its security policies is hazy at best. The EU's multilateral trade strategy is offensive with respect to liberalization of the services industries and 'Singapore issues', and defensive on agriculture. Substantive linkages with foreign and security policy are rather exceptional, such as the linkage between Russia's application for WTO membership and the ratification of the Kyoto protocol. To be sure, security considerations can interfere with EU trade policy objectives. For example, after 9/11, the EU and the US felt the need to show the international community that they could and would still work together to tackle international issues and problems. Introducing a new WTO trade round seemed the perfect opportunity to prove to the world that international cooperation and multilateralism was still possible and happening. Accordingly, in November 2011, two months after the attack on the WTC towers, the Doha round was launched.⁴³

4.2 THE BILATERAL LEVEL

Bilateral trade arrangements – either in the form of FTAs, Trade and Cooperation Agreements, or Association Agreements – provide more scope for the EU to integrate foreign and security objectives into its trade activities than the multilateral forum. Until recently, EU trade agreements with other countries were

⁴⁰ European Council, *supra* n. 1.

⁴¹ GATT Article XXIV(ii).

⁴² S. Depauw, *The European Union's Involvement In Negotiating an Arms Trade Treaty*, The EU Non-Proliferation Consortium, NP paper 23 (2012).

⁴³ D. Kleimann & J. Guinan, *The Doha round: an obituary*, Global Governance programme Policy Brief 1 (2011).

preferential⁴⁴ and *sui generis*, in line with broader foreign policy considerations. Trade purists castigate such preferential arrangements, which are designed for political purposes and hinder trade liberalization at the multilateral level. Messerlin states that the EU attempted to ‘carve out zones of political influence through the intensive use of discriminatory trade agreements’.⁴⁵ He suggests that the EU was so active in concluding preferential trade arrangements because it lacked a ‘real’ foreign policy.⁴⁶

Since the 2000s, however, the EU’s external trade relations have become more streamlined with economic rather than foreign policy objectives, both in relation to: (i) the selection of trade partners (evolving from a focus on historical and neighbouring partners to a worldwide approach) and (ii) the substantive content (evolving from *sui generis* arrangements to WTO compatibility). This move was formalized under the Commission’s ‘Global Europe’ strategy, which called, *inter alia*, for a new generation of agreements – while reiterating the EU’s commitment to the WTO negotiations process – with a number of emerging economies where the EU has offensive economic interests, including ASEAN, South Korea, and India. Looking at both the *contents* of the new bilateral agreements and the *selection* of partner countries, it is clear that the EU’s new agreements are less driven by foreign and security considerations than the previous generation.⁴⁷ First, economic interests, rather than foreign policy and security considerations, have come to determine the selection of the new FTA partners. In terms of horizontal coherence, for instance, there is no correlation between the selected trade partners and the occurrence of operations in the framework of the Common Security and Defence Policy (CSDP). In a notable passage, the ‘Global Europe’ document even openly states that previous trade arrangements were too often based on the EU’s political concerns in developing countries and in the neighbourhood, and that the EU wants to go back to its core business of defending economic interests.⁴⁸ Contrary to previous practices, the EU’s ‘main trade interests’ need to be served better and ‘economic factors must play a primary role’ in the choice of trading partners.

Second, also the content of the new agreements tends to be more economy-oriented and less focused on political objectives. To begin with, unlike the traditional preferential trade agreements, which were simply concerned with removing tariff barriers for goods, the new FTAs encompass a whole range of

⁴⁴ Preferential trading partners receive lower tariffs than the multilateral ‘most-favoured nation’ tariff agreed in the GATT.

⁴⁵ P.A. Messerlin, *European commercial policy in the 2000s* at 4 (Inst. Int’l Econ. 2001).

⁴⁶ Peterson, *supra* n. 14, at 4.

⁴⁷ *Ibid.*

⁴⁸ European Commission, *supra* n. 18, at 9.

trade-related issues in such areas as services, investment, competition, government procurement, intellectual property rights and labour rights. The agreements appear even less political in cases where the partner countries are heavily opposed to the inclusion of provisions that are not trade-related. For instance, in the FTAs currently being negotiated with India and ASEAN Member States, the non-proliferation clause is likely to be dropped because it is not legally required when the EU has also negotiated a PCA with the country concerned. India has even stated that it does not want to include the (legally required) essential elements clause in the FTA.⁴⁹ In addition, India responded very heavily against a proposal by the European Parliament to tie the FTA to the issue of Kashmir.

Even when political and security considerations are included, their impact tends to be minor. An examination of EU bilateral trade agreements concludes that these arrangements have a high level of 'legal inflation': they cover a wide range of non-trade topics and are used for 'declaratory diplomacy', but the provisions in question are not enforceable. EU trade agreements only contain groundbreaking provisions in the area of competition policies – not in foreign policy related issues.⁵⁰ Moreover, as we will see in more detail below, when violations of the 'essential elements' clauses effectively lead to 'appropriate measures' (i.e., sanctions) by the EU, the latter are rarely trade-related. In sum, the EU's new bilateral trade agreements tend to be de-politicized compared to the previous generation of bilateral trade agreements, with security objectives being pushed to the backseat.

A distinct category within the EU's arsenal of bilateral trade initiatives are the negotiations of EPAs with the group of African, Caribbean and Pacific (ACP) countries. Following the EU-ACP Cotonou Agreement (2000), both parties undertook to negotiate reciprocal trade arrangements between 2002 and 2008. More specifically, WTO compatible trade agreements between the EU and six groups of ACP regions were to be established, constituting a watershed in Europe's relations with Africa. The scope and impact of these trade arrangements will be even more extensive when the 'interim EPAs', are transformed into 'full EPAs'. Rather than traditional free trade agreements (FTAs), full EPAs – as envisaged by the EU – encompass a whole range of trade-related issues in such areas as services, investment, competition, government procurement, and intellectual property rights.

⁴⁹ F. Bossuyt, *The social dimension of the New Generation of EU FTAs with Asia and Latin America*, 14 *European For. Affairs Rev.* 5, 703–722 (2009).

⁵⁰ H. Horn, P.C. Mavroidis & A. Sapir, *Beyond the WTO? An autonomy of EU and US preferential trade agreements*, Breugel Blueprint Series VII (2009).

Despite these broad ambitions, security objectives have been remarkably absent in the EPA negotiations. This is a striking observation given that security issues in Africa have been high on the EU agenda in the past decade. DG Trade has negotiated EPAs with, among others, the Democratic Republic of Congo, Sudan and Zimbabwe, independently of the EU's foreign and security policies towards these countries. There are at least no indications that Europe's diplomatic efforts in resolving the conflicts in Eastern Congo and Darfur, and in defusing the political situation in Zimbabwe interfered with the EPA negotiations, or that they involved other trade instruments. Security considerations were not an issue on the European trade agenda with Central or Southern Africa. The EU did not consider the possibilities of granting additional trade incentives, or withdrawing existing trade preferences based on the political and security situation in the ACP partners countries. The European EPA agenda focused mainly on the establishment of reciprocal free trade, trade-related rules, and development assistance under the form of 'Aid for Trade'.

Eventually, a number of ACP countries, including the DRC (as a member of the Central Africa Group) and Sudan (as part of the Eastern and Southern Africa Group), failed to negotiate EPAs by the end of 2007. As a result, their exports to the European market are subject to the EU's 'Everything but Arms' (EBA) initiative, which, as explained below, only deals with market access and does not include any foreign policy elements. In turn, the EU has signed an EPA with Zimbabwe and an interim EPA with Fiji, despite both countries being subject to EU sanctions for the violation of the democratic principles. These trade negotiations, which propose enhanced cooperation, are completely disconnected from the EU's concerns about the regimes in Zimbabwe and Fiji. Olsen's analysis of the 'missing link' between trade and security agendas in the context of EPAs sheds light on why the EU initialled trade negotiations with Zimbabwe and Fiji, despite its hostile foreign policy stance towards these countries.⁵¹ He argues that security was not included as a separate issue because of the compartmentalization of policy-making within the EU. Interviews with DG Trade officials (November 2009) revealed that DG Trade was indeed less enthusiastic about political conditionality in EPAs compared with their colleagues at DG Development.

4.3 THE UNILATERAL LEVEL

The EU's most commonly used unilateral trade instrument is the GSP, which is legalized by the Enabling Clause within the framework of the GATT/WTO. The

⁵¹ G. R. Olsen, *The missing link: EPAs, security and development interventions in Africa*, in Faber & Orbie, *supra* n. 7, 342–358.

GSP scheme allows the EU to grant more favourable market access to developing country imports, and thus to depart from the standard ‘most-favoured nations’ tariffs. The EU has pursued political objectives through the conditionality incorporated in the GSP scheme: it provides additional market access to countries complying with the EU’s foreign policy objectives (trade incentives), or it withdraws trade preferences for countries violating these principles (trade sanctions). The two main political objectives advanced through the GSP mechanism are fighting drugs and promoting labour rights. For example, in the 1990s, Latin American countries actively fighting drug production and trafficking were granted additional market access. In turn, market access for Moldova (2000) and Sri Lanka (2004) was increased because the countries complied with the fundamental labour standards as defined by the International Labour Organization (ILO). In contrast, Burma’s GSP trade preferences were withdrawn (1997) because of practices of forced labour, while Belarus lost its GSP market access (2007) because of violations of freedom of association.⁵²

However, the EU cannot apply social, drug, or any other kind of GSP conditionality in a discretionary way. The use of a GSP ‘carrot and stick’ system according to foreign policy considerations is confined by the WTO trade rules. These legal constraints became clear when the EU added Pakistan to the drugs incentive system in November 2001. The EU argued that Pakistan’s special GSP preferences were related to its fight against drug production and trafficking, but in fact the trade incentives were meant to support Pakistan’s role in the post 9/11 fight against terrorism. India challenged the European decision before the WTO Dispute Settlement Body. Briefly summarized, the WTO Appellate Body concluded that additional GSP trade preferences must be related to development objectives and must be based on clear criteria. They cannot simply be used to reward countries for their contribution to European foreign and security policy goals, e.g., in the fight against terrorism.⁵³ This condemnation put an end to the possibility of using preferential market access as a leverage for a country’s cooperation in foreign and security issues.

In response to this WTO case, the EU revised its system of special GSP preferences. The separate social and drugs clauses were abandoned and integrated into a new ‘sustainable development and good governance’ regime. To be eligible for ‘GSP-plus’ market access, requesting countries must be ‘vulnerable’ and ‘ratify and effectively implement’ sixteen human rights conventions and several conventions on environment and governance. This may be an example of how the EU’s trade leverage is used to stimulate the ratification and implementation of

⁵² J. Orbie & L. Tortell, *The New GSP+ Beneficiaries: Ticking the Box or Truly Consistent with ILO Findings?* 14 *European For. Affairs Rev.* 5, 663–681 (2009).

⁵³ L. Bartels, *The WTO legality of the EU’s GSP + arrangement*, 10 *J. Int’l Econ. L.* 4, 869–886 (2007).

multilateral conventions, in line with the Normative Power Europe role. For example, the GSP-plus has been successful in ensuring the full ratification of the eight fundamental labour standards in countries such as Bolivia, Colombia, Venezuela, Mongolia and El Salvador. Actual implementation has been more difficult to monitor, and led to inconsistencies in the application of labour standard conditionality through trade. The European Commission's new GSP proposal provides a more serious and systematic monitoring.⁵⁴

Remarkably, the EU was again repelled by the WTO over another initiative involving Pakistan, when it decided in September 2010 to grant unilateral trade concessions to Pakistan to support economic recovery after the devastating floods. To ensure that its trade initiative would be in compliance with WTO law, the EU requested a WTO waiver authorizing it to deviate from WTO rules to discriminate in favour of Pakistan. However, the EU's request for the waiver ran into opposition at the WTO from a number of members, including India and Bangladesh, whose consent was needed in order to secure the waiver. While India's opposition was politically motivated, Bangladesh feared for negative implications on its textile industry. Moreover, the proposal to grant trade concessions to Pakistan was not strongly supported by DG Trade.⁵⁵ The waiver, which allows for a temporary suspension of import duties on key Pakistani imports, was eventually approved in early 2012 after the EU reduced the trade concession in order to allay the opposition.⁵⁶

In addition, the incentive system only applies to a limited number of countries. First, the EU's GSP regulation specifies that only vulnerable countries can receive GSP-plus preferences. Therefore, many developing countries such as Indonesia, Thailand, Malaysia, Brazil, and Argentina are not eligible. Second, the GSP-plus does not apply to the poorest countries, which already benefit from the 'Everything but Arms' (EBA) scheme. In short, GSP-plus beneficiaries need to be poor, but not too poor. Their number is limited to mostly the former drugs beneficiaries in Latin America and some countries in the EU's Eastern neighbourhood.

The EBA system is another GSP incentive system reserved for the forty-nine least-developed countries such as Afghanistan, Bangladesh, Sudan, the DRC, Cambodia, and Haiti. Although the label of 'Everything but Arms' suggests a

⁵⁴ F. Bossuyt, M. Martins Gistelincx, B. Kerremans, L. Tortell & J. Orbie, *The Social Dimension of European Union External Trade Relations*, 14 *European For. Affairs Rev.* 5 (2009); European Commission, *Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalized tariff preferences*, COM (2011) 241, 2011/0117/COD.

⁵⁵ *As EU Trade Plan for Pakistan Hits Roadblock, Critics Ask: Was WTO Waiver Necessary?* 15 *Bridges Weekly Trade News Digest* 12 (2011), <http://ictsd.org/i/news/bridgesweekly/103513/>.

⁵⁶ Since the threshold for qualifying as a vulnerable country has been made more flexible, Pakistan may well be eligible for the new GSP-plus.

trade–security linkage, the continuation of tariffs for LDC arms and ammunitions exports to the European market can hardly be considered a trade–security initiative.

In sum, although the EU has used the GSP system for the pursuit of foreign policy oriented objectives, the EU's room for manoeuvre – and thus the degree of horizontal coherence –, is restraint by the rules of the WTO. Moreover, the EU has limited the scope of the revised trade incentive scheme by excluding the least-developed and emerging (= non-vulnerable) developing countries. In addition, there is no clear overlap between the priority regions of the European security and defence policy and the GSP-plus beneficiaries, with the exception perhaps of three countries in the EU's Eastern neighbourhood (Georgia since 2005; Armenia and Azerbaijan since 2009).

A final instrument that is scrutinized here is the use of sanctions against third countries, which is probably the most obvious linkage between the EU's international activities under the (formerly) first and second pillars. This is even more so considering that economic sanctions are so far the only foreign policy measures to require both a joint action in the context of the CFSP and an EC Council Regulation. However, here too, the relevance of trade sanctions based on foreign and security considerations must be put into perspective. It is generally acknowledged that the EU, and in particular, some Member States, has been reluctant to apply sanctions, favouring the use of softer measures such as political dialogue, trade and aid incentives.⁵⁷ When the EU resorted to sanctions against third countries, this has mostly been in relation to neighbouring countries or to ACP countries, where most of the EU's security and defence activities have taken place.⁵⁸

Importantly, even when the EU sanctions against third countries, there are hardly any trade sanctions involved.⁵⁹ The imposition of restrictive measures for violations of the EU bilateral agreements' 'essential elements clause' (see above), for instance, has never included the use of trade sanctions. For example, eleven countries have been sanctioned under Article 96 of the EU-ACP Cotonou Agreement for violations of human rights and democratic principles. Various kinds of sanctions were applied, ranging from very mild to rather severe measures, but no trade measures. Similarly, the lengthy negotiations on EPAs have not considered any linkage between EU-ACP trade flows and human rights considerations.⁶⁰

⁵⁷ C. Portela, *European Union Sanctions and Foreign Policy. When and Why do they Work?* (Routledge 2010).

⁵⁸ C. Portela, *When and where does the EU impose sanctions?* 17 *Politique Européenne* 3, 83–111 (2005).

⁵⁹ An exception are commodity embargoes: oil and gas embargoes, gems and semiprecious stones embargoes, timber embargo, embargo on equipment for the gems processing industry, prohibition on insurance, and a ban on investment and joint ventures. Such embargoes have been imposed on former Yugoslavia, Myanmar, Iran and Syria.

⁶⁰ K. Arts, *A human rights-based approach to the ACP–EU EPAs*, in *Beyond Market Access for Development: EU–Africa Relations in Transition* 279–303 (G. Faber & J. Orbie eds., Routledge 2007).

While general or specific trade sanctions have hardly been applied, notable exceptions are Burma and Belarus, whose GSP trade preferences have been withdrawn because of serious and systematic violations of fundamental labour standards. These are proper 'first pillar' sanctions, and are part of a broader range of foreign policy measures against Burma and Belarus, such as the suspension of development aid, ban on entry visas, and freezing of assets. A more limited application of pure trade sanctions has been the temporary withdrawal of Sri Lanka's GSP-plus preferences because of serious violations of Sri Lanka's implementation of the International Covenant on Civil and Political Rights, the Convention against Torture (CAT) and the Convention on the Rights of the Child.⁶¹ In the most recent GSP regulation the EU pays more attention than before to the possibility of such temporary withdrawals of trade preferences by elaborating the procedures and extending the legal ground, which now also includes 'failure to comply with international conventions on anti-terrorism' (Art 19(1c)).⁶² To what extent this elaborated linkage between trade preferences and foreign policy objectives will be applied in practice remains to be seen. The Commission has also proposed to reinstate tariff preferences for Myanmar given the ongoing reforms in the country, thereby linking explicitly trade policy with broader foreign policy considerations.⁶³

Instead of trade sanctions, which limit specific or general trade flows to the European market, the EU tends to use either 'smart' sanctions (travel sanctions, financial sanctions) or the withdrawal of development aid and/or arms embargoes. In fact, the latter link up with trade, since they effectively hinder the export of arms. However, the relevance of the EU in this area is limited. When delegating competence for commercial policies to the EU in the Treaty of Rome in 1957, it was explicitly added that arms trade remained a national competence. Although an Europeanization of the EU Member States' regulations and practices in this area has taken place in the past decade, *inter alia*, through the code of conduct on arms trade, which became a Council Joint Action in 2008, and the regulation on dual-use goods, this area is still largely a Member State competence.⁶⁴ Nevertheless, it is worth noting that in its 2011 Green Paper on the reform of the export control system – as announced in the Commission's latest trade strategy in

⁶¹ European Council, *Implementing regulation EU No 143/2012*, (15 Feb. 2010).

⁶² European Parliament and European Council, *Regulation (EU) No 978/2012 applying a scheme of generalized tariff preferences repealing Council regulation (EC) No 732/2008*, (25 Oct. 2012).

⁶³ European Commission, *Proposal for a regulation of the European parliament and of the Council repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to generalized tariff preferences from Myanmar/Burma*, COM (2012) 524 final.

⁶⁴ (2008/230/CFSP) (EC, No 428/2009); S. Bauer & E. Rémacle, *The EU's policy in the field of arms exports controls*, in *Rethinking EU foreign policy* (B. Tonra & T. Christiansen eds., Manchester U. Press 2004).

2010 (see above) – the Commission proposes a possible new EU export control model based on a network of existing licensing authorities operating under more common rules.⁶⁵ While the Member States would maintain control of their export control policies, overall, the goal would be to launch a genuinely common approach to export controls across the entire EU (European Commission, 2011: 13).

5 CONCLUSION: ONLY ‘NEUTRAL’ COHERENCE

This article has explored the structural-operational interface in the EU’s comprehensive approach to security, focusing in particular on the politico-strategic level of the trade-security nexus. On the politico-strategic level, security comprehensiveness is primarily a matter of horizontal coherence, i.e., coherence between the different dimensions of the EU’s external action. If comprehensive security is successfully implemented at the structural-operational interface, we should find evidence of a positive synergetic interaction between the different policy fields, which would be following the same agenda. The article started from the assumption that we would find little evidence of this in the trade-security nexus; indeed, we hypothesized that the challenge of comprehensive security to combine structural activities with operational measures is most pronounced in the trade-security nexus due to the strong institutional insulation of the EU trade policy-making machinery. To examine this, we assessed the coherence between EU trade and security discourses and the extent to which trade measures have been used for security policy ends.

Based on our analysis of the main EU trade activities of the past decade, it is clear that security objectives have been only scarcely integrated in trade policy, and that overall, coherence between the trade and security realms is rather limited, or ‘neutral’ at best, to the extent that there is merely an absence of contradictions instead of the establishment of a positive synergetic interaction. Nevertheless, there are instances of ‘benign’ coherence, such as the EU’s GSP system and the revision of the dual-use goods. However, also cases of ‘malign’ coherence were observed, such as the EU initiating trade negotiations with Zimbabwe and Fiji, despite the Union’s hostile foreign policy stance towards these countries.

Moreover, the empirical analysis mostly confirms the hypothesis that horizontal coherence between the trade and security areas is inhibited by the institutional compartmentalization and the lingering cross-pillar divide of the EU system of external policy, in which DG Trade is a highly autonomous sub-system

⁶⁵ European Commission, *supra* n. 19.

that works according to its own logic and procedures. Indeed, the powerful position that the EU's trade policy machinery has acquired in the EU's institutional architecture allows it to act fairly independently and implies that its activities cannot easily be influenced by other parts of the EU's external relations policy structure, including the CFSP. For example, while the EU's security and development strategies towards Africa have been geared to one another, in line with the EU's comprehensive approach to the security-development nexus, EU trade policy-makers have clearly taken a different track. In line with Pilegaard's and Olsen's analyses of the trade-aid and the trade-security nexus respectively, it is clear that the trade and security sub-systems each operate according to their own logic and standard procedures.⁶⁶ Trade and security are based both on different institutional logics in the Commission and the Council, and on different ideological bases, reflecting the opposing views of trade purists and foreign policy specialists. This refers to Gebhard and Norheim-Martinsen's argument that 'the tension lies in the (sometimes opposing) organizational esprit de corps of the various institutional actors involved'.⁶⁷ Moreover, the Lisbon Treaty has not changed this situation, as was shown by the most recent empirical examples in our analysis.

However, the analysis also revealed that the internal-institutional aspect is in itself not enough to explain the limited horizontal coherence in the trade-security nexus, and thus the difficulty of combining structural measures with operational activities in the pursuit of comprehensive security. In particular, we found that the inhibiting impact of the internal-institutional setting of the EU is reinforced by two external factors, notably by legal restraints imposed by the international trade regime and by the resistance of important trade partners to incorporate non-trade issues in trade arrangements.

To begin with, the strong rules-bound character of the international trade regime works against EU attempts at using trade for foreign policy and security purposes. As demonstrated above, the EU experienced this when its special trade preferences to Pakistan were condemned by the WTO. It is thus not a coincidence that the EU's trade policy – its unilateral (GSP) and bilateral trade relations – has become increasingly de-politicized, streamlined with the economic orthodoxy as enshrined in the WTO Agreements. Since the end of the 1990s, compatibility with the WTO has been the leitmotiv in EU bilateral trade negotiations. This means that, in accordance with GATT Article XXIV, reciprocal liberalization between both trading partners should be established. As a result, there is less scope for sui

⁶⁶ Pilegaard, *supra* n. 8; Olsen, *supra* n. 30; Peterson, *supra* n. 14.

⁶⁷ Gebhard & Norheim-Martinsen, *supra* n. 2.

generis, preferential arrangements à la Lomé or the first generation of Euro-Med agreements designed in the 1960s and 1970s.

That said, the EU's strong support for the WTO regime is also linked to the fact that, as the world's most powerful trading bloc, the EU has strong interests in a stable and global trading system. From this perspective, it does not come as a surprise that the EU's current trade policy is driven predominantly by economic interests. Notwithstanding the EU's rather normative and broad definition of what constitute its trade interests, its basic mandate still resolves around the promotion of the EU's offensive economic sectors and the protection of sensitive European industries. The integration of foreign and security objectives into the trade realm, for instance, by granting additional market access or sanctioning trade with a particular country, may hurt particular economic actors inside the EU. Manipulating trade preferences according to foreign policy considerations would not only violate WTO rules, but would also affect some vested economic interests negatively and jeopardize the stability of the economic system. This point is clearly linked to the ideational factor of the trade-security linkage and the corresponding debate held among academics and policy-makers alike about the purpose of trade policy, which reflects the basic tension that exists between the views of trade purists (including trade policy-makers) and foreign policy specialists (including diplomats).

A second factor that works against the EU's use of trade instruments for security purposes is the resistance of important trade partners against the incorporation of non-trade issues in trade agreements. This is based on a legitimized fear that non-economic arrangements will be employed for geopolitical or commercial reasons, combined with reluctance towards political interference of Western powers into their domestic system. This partly explains the limited number of applications for the GSP-plus conditionality system. The clearest example is probably India's resistance to incorporate in the FTA the – for the EU standard – essential elements clause, and in fact any clause that is not trade-related. In this context it should be noted that, also at the non-EU side of the negotiation table, diplomats and politicians usually belong to the trade or finance ministries and not to the foreign and security policy unit of their political system.

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