EU Open Strategic Autonomy and the Trappings of Geoeconomics

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The EU's new trade strategy promises to advance open strategic autonomy that is to balance the benefits of economic interdependence with growing demands to manage Europe's exposure to the risks it entails. What explains these shifting priorities? This article situates open strategic autonomy in the theoretical debates of International Political Economy (IPE) literature on economic interdependence and geoeconomics to aid our understanding of the debates ensnaring economic strategy in the EU, but also related debates in the United States, China and elsewhere. This framework, the article argues, helps us understand changing strategic priorities in economic policy by reference to wider structural shifts engulfing the global economy. It then identifies four priority targets of EU economic policy in which (new) autonomous policies are forthcoming: (i) tackle economic distortions; (ii) defend against economic coercion; (iii) link with values and sustainability; and (iv) protect critical assets and supply chains. These observations build towards addressing the main research question: Has open strategic autonomy turned a corner on EU principles of openness, liberalization and international cooperation?

Keywords: trade and investment, European Union, geoeconomics, International Political Economy

1 INTRODUCTION: OPEN STRATEGIC AUTONOMY

Despite originating in defence debates, it is perhaps in the EU's economic (and technological) context where *strategic autonomy* and *sovereignty* are falling on most fertile ground. 'Strategic autonomy has been widened to new subjects of an economic and technological nature, as revealed by the Covid-19 pandemic', High Representative of the EU for Foreign Affairs and Security Policy (HRVP) Josep Borrell observed.[1] Following a European Council summit in October 2021, President Michel concluded: 'We will reduce dependencies and achieve resilience in areas such as energy, digital, cyber security, semi-conductors, industrial policy, trade and reinforcing the single market'.[2] EU capitals, too, speak in similar tones. President Macron warned that 'if we don't build our own champions in all

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1 J. Borrell, *Why European Strategic Autonomy Matters* (European External Action Service, 3 Dec. 2020).

2 European Council, *Oral Conclusions Drawn by President Charles Michel Following the Informal Meeting of the Members of the European Council in Brdo pri Kranju* (Slovenia, 6 Oct. 2021).

Gehrke, Tobias. 'EU Open Strategic Autonomy and the Trappings of Geoeconomics'. *European Foreign Affairs Review* 27, Special Issue (2022): 61–78.

areas – digital, artificial intelligence – our choices will be dictated by others'.[3] German Chancellor Angela Merkel, meanwhile, told the *Bundestag* that the pandemic 'clearly demonstrated Europe's dependencies'. Going forward, 'Europe needs to become sovereign technologically and digitally' (own translation).[4] And a Dutch-Spanish non-paper urged the EU to become 'more sovereign' and address its 'dependence on foreign technologies'.[5] HRVP Borrell summed up the changing mood: 'Today we are in a situation where economic interdependence is becoming politically very conflictual'.[6]

Not everyone is fully onboard with the terminology of *autonomy* or *sovereignty* in the economic sphere. Aspiring for *autonomy* in a highly globalized economy, the European Commission's Directorate-General for Trade tirelessly warned, was neither viable nor desirable for an export-driven economy such as the EU's. But rescinding the term outright was no longer possible after it featured prominently in speeches under the new von der Leyen presidency. The Commission's liberal agents therefore began to entertain a slightly altered term: *open strategic autonomy*. Adding 'open' to the equation, some hoped, would help to keep the EU wedded to its credentials as a free trader and open economy, rather than the more close-minded or protectionist-sounding 'autonomy'. It means 'reaping the benefits of openness for our businesses, workers and consumers, while protecting them from unfair practices and building up our resilience to be better equipped for future challenges', Commission documents began defining the new concept.[7] A new trade strategy,[8] presented in February 2021, codified this term as the new doctrine of EU action, which was about finding a golden balance between opportunity and risk of economic interdependence. 'We don't want to be protectionists, but we have to protect ourselves', Borrell explained this dilemma at the heart of open strategic autonomy.[9]

The shift in EU discourse about *autonomy* and *sovereignty* in economic policy is particularly in relief when contrasted to previous decades, in which the Union proclaimed itself a leader of the liberal economic order.[10] This order was loosely

3 Quoted in K. Popp, *Waving the Flag of Digital Sovereignty* (Atlantic Council, 11 Dec. 2019).

4 *Regierungserklärung von Bundeskanzlerin Dr Angela Merkel zur deutschen EU-Ratspräsidentschaft und zum Europäischen Rat am 19. Juni 2020 vor dem Deutschen Bundestag* (Bundesregierung, 18 June 2020).

5 *Spain-Netherlands Non-paper on Strategic Autonomy While Preserving an Open Economy* (Kingdom of the Netherlands, 24 Mar. 2021).

6 Borrell, *supra* n. 1.

7 European Commission, *A Renewed Trade Policy for a Stronger Europe: Consultation Note (16* June 2020).

8 European Commission, *Trade Policy Review – An Open, Sustainable and Assertive Trade Policy*, COM (2021) 66 final (Brussels, 18 Feb. 2021).

9 J. Borrell, *European Council on Foreign Relations, Sovereign Europe, Hostile World*, in conversation with HRVP Josep Borrell (ECFR, 21 Dec. 2020).

10 S. Meunier, *Managing Globalization? The EU in International Trade Negotiations*, 45(4) J. Com. Mkt. Stud. 905–926 (2007).

characterized by economic openness: free trade, freedom of capital movement, balanced budgets, export competitiveness, and non-intervention by the state. A separation of state and market – of security and economics[11] – ultimately saw a withdrawal of politics from all areas of the economy in order to achieve the most efficient prospects for economic welfare.[12] Deep economic interdependencies were cast in a largely positive light, which would bring economic convergence – and maybe even political convergence. 'Flows of trade and investment, the development of technology and the spread of democracy have brought freedom and prosperity to many people', the *European Security Strategy* of 2003 made this perceived link explicit.[13] These notions of ever-deeper economic interdependence seem a long way from today's 'politically conflictual' assessments.

What explains this shift in assessment? Can an *open* and an *autonomous* approach to economic policy coexist? To approach these questions, I situate the open strategic autonomy dilemma in the wider theoretical debates on economic interdependence found in the International Political Economy (IPE) literature and draw from their insights. To get a better sense of the structural forces in the global economy, we also briefly gaze at discourse and policy in the United States, China and other economic powers. After, we will look more closely at the growing EU economic policy agenda at the heart of open strategic autonomy by introducing four policy baskets which help us to categorize related, yet different, objectives. The combined theoretical and empirical observations will build towards answering the stated research questions in the conclusion.

2 ECONOMIC INTERDEPENDENCE: BETWEEN PERIL AND SALVATION

2.1 Is economic interdependence a benefit or risk?

This maybe among the oldest question in the books of economic and political philosophy. Already the eighteenth century liberal philosophers (Montesquieu, Thomas Paine, Immanuel Kant, etc.) developed theories of *doux commerce*, which saw a direct correlation between economic engagement – deepening interdependence – and political stability, or peace. 'If commerce were permitted to act to the universal extent it is capable', Thomas Paine would write in *The Rights of*

11 A. Roberts, H. Choer Moraes & V. Ferguson, *Toward a Geoeconomic Order*, 22(4) J. Intl. Econ. L. 655–676 (2019).

12 D. Rodrik, *After Neoliberalism, What?*, Paper presented at the Alternatives to Neoliberalism Conference sponsored by the New Rules for Global Finance Coalition (23-24 May 2002), https://drodrik.scholar.harvard.edu/files/dani-rodrik/files/after-neoliberalism-what.pdf.

13 Council of the European Union, *A Secure Europe in a Better World: European Security Strategy*, 15895/03 (Brussels, 8 Dec. 2003).

Men in 1791, 'it would extirpate the system of war'. Throughout the centuries these views and assumptions have been adapted and refined countless times. Economic realists, meanwhile, have long stressed the profound implications for the economic and political autonomy of a state. Interdependence was never symmetrical, German economist Max Sering already wrote in 1900.[14] This asymmetry can become a powerful weapon for states to interrupt or weaponize economic flows against dependent nations.[15] These risks from economic interdependence would always loom over states, realists contend.[16] Acknowledging states' tendencies to value autonomy or sovereignty, John Ruggie, Robert Keohane, Joseph Nye, Stephen Krasner, Richard Cooper and many others argued, for instance, that 'international regimes' such as principles, norms, rules, and decision-making procedures,[17] could stabilize the global economic order,[18] dilute state power (to weaponize interdependencies), and support economic integration.[19]

Indeed, past decades seemed to have been supporting these liberal views. Complex economic regimes – such as the *World Trade Organization* (WTO) and bilateral trade agreements – legalized (i.e., de-politicized) economic affairs, thereby largely insulating open economic exchange (i.e., interdependence) from political or diplomatic quarrels. This, in turn, supported buy-in from nations who may otherwise have been concerned over being vulnerable from too-tightly knit interdependencies. The integration of China and others into this liberal economic order was not least partly premised on the positive spill-over effects of economic interdependence. 'Nations with growing economies and strong trade ties are more likely to feel secure and to work toward freedom', the US *National Security Strategy* of 1996 made clear.[20] US President Bill Clinton would famously proclaim that '[b]y joining the WTO, China is not simply agreeing to import more of our products; it is agreeing to import one of democracy's most cherished values: economic freedom […]. And when individuals have the power, not just to dream but to realize their dreams, they will demand a greater say'. In Europe, too, increased economic interdependence was by-and-large considered a marker for wealth, stability and security – not loss of autonomy. 'Europe has nothing to fear from China's phenomenal

[14] M. Sering, *Die Handelspolitik der Großmächte und die Kriegsflotte, Handels – und Machtpolitik*, Vol. II. Stuttgart 31 (1900).
[15] A. O. Hirschman, *National Power and the Structure of Foreign Trade* (University of California Press 1945).
[16] R. Gilpin, *Economic Interdependence and National Security in Historical Perspective*, in *Economic Issues and National Security* (K. Knorr & F. N. Trager eds, Regents Press of Kansas 1978).
[17] S. D. Krasner, *Structural Causes and Regime Consequences: Regimes as Intervening Variables*, 36 Intl. Org. 185 (1982).
[18] J. Ruggie, *International Responses to Technology: Concepts and Trends*, 29(3) Intl. Org. (1975).
[19] R. O. Keohane & J. S. Nye Jr, *Power and Interdependence*, 16 (Pearson, Fourth Edition, 2012).
[20] *A National Security Strategy of Engagement and Enlargement* (The White House, Feb. 1996).

growth',[21] EU Trade Commissioner Peter Mandelson declared in 2004, while a 2009 report of the European Parliament asserted the institution's believe 'that "change through trade" is a way to aid China's transformation towards being an open and democratic society'.[22]

Today, the liberal assessments of economic interdependence have come under severe stress. Governments around the globe stress the risks of economic interdependence to notions of *autonomy* or *sovereignty*. While these concerns proliferated following catastrophic, Covid-19 related global supply shortages in 2020, the global pandemic has been a mere catalyst of existing patterns. In the US, the notion under President Trump of economic *decoupling* from China may have been an extreme interpretation of this assessment. But the Biden administration has continued and expanded selective policies to review critical supply chains,[23] strengthen investment screening and export controls, and freeing up multi-billion dollar subsidy schemes for national industries, among other measures. Britain too, under its *Project Defence*, is looking into reducing supply dependence on key imports from China,[24] while Japan has upgraded its bureaucratic set up to monitor new technology and economic security threats, including risks of foreign dependence.[25] *Atmanirbhar Bharat*, which translates to 'self-reliant India', has become the central slogan of economic and technology policy of the Modi administration. And China's *dual circulation* strategy reiterates a historic emphasis on self-reliance: 'we must strive to build an independent, controllable, safe and reliable industrial chain and supply chain' (google translated) Xi Jinping called on his nation.[26]

Economic interdependence remains a fact, of course, as firms have picked up global trade and investment in the aftermath of the Covid-19 shock of 2020. But at increasing scope, governments around the globe are looking for ways to control, to shape, or to manipulate certain economic links in the interest of notions of economic security or national security – or, indeed, autonomy and sovereignty.[27] The pendulum seems to now be swinging (back) from a liberal to a more realist assessment of interdependence.

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21 P. Mandelson, *The EU-China Relationship, The EU-China Business Summit, The Hague* (European Commission, 9 Dec. 2004).

22 European Parliament, *Report on Trade and Economic Relations with China*, 2008/2171(INI) (27 Jan. 2009).

23 *Building Resilient Supply Chains, Revitalizing American Manufacturing and Fostering Broad-Based Growth*: *100-Day Reviews Under Executive Order 14017* (The White House, June 2021).

24 G. Parker & D. Thomas, *UK Looks to Wean Itself off Chinese Imports*, Financial Times 10 June 2020.

25 A. Igata & B. Glosserman, *Japan's New Economic Statecraft*, 44(3) Washington Q. (2020).

26 X. Jinping, *Several Major Issues in the National Medium and Long-term Economic and Social Development Strategy* (31 Oct. 2020), http://www.qstheory.cn/dukan/qs/2020-10/31/c_1126680390.htm.

27 Roberts et al., *supra* n. 11.

2.1[a] *What Is Causing This Reassessment of Interdependence?*

For Robert Gilpin, an oscillation between economic liberalism and realism – each reflecting a specific set of economic and political circumstances – was a recurring phenomenon in world politics. 'When these conditions [of liberalism] have been challenged, mercantilism has always revived in a new guise', Gilpin observed.[28] What are the conditions, then, which are necessary to support a liberal global economy?

An open, liberal economy was primarily in the interest of a hegemon (or a group of dominant states), some scholars contend, for their power allows them to build or maintain a favourable order (rules, beliefs, norms, etc.) for maximum wealth creation. Over time, however, open economies will eventually lead to the dissemination of technology and economic power from the core to the periphery of that order, allowing the economic primacy of the hegemon to be challenged.[29] If the challenger is also a security rival, or espouses a different economic model,[30] the hegemon faces a dilemma, Arthur Stein (1984) argued: either force and maintain an open and free economy, which will see a maximization of wealth but also the erosion of its hegemonic position over time; or attempt to maintain its position and counteract the rise of the challenger, but suffer welfare.[31]

China's economic rise may be the single most important variable in this consideration, a fact which hardly needs explanation. However, two issues amplify this economic rise: China's economic model of state-led capitalism, causing economic harm; and China as a growing security rival and (sometimes) revisionist power in the global arena. In such a scenario of expanding competition, a realist logic can push nations to prioritize *relative economic gains* (more gains than the competitor) over *absolute economic gains* (more gains for all) because, as Roberts et al. put it, 'economic power ultimately undergirds other forms of power, including military power, which are often understood by great powers in relative or zero-sum terms'.[32] In that sense, the oscillation between (relatively) open economies and (relatively) closed economies is considered by some scholars as a 'natural dynamic' in the global economy.

In a more realist global economy, powers feel less comfortable with accepting closer economic interdependence and are more concerned with national autonomy, stressing dependencies on foreign states for critical supplies, for example.

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28 Gilpin, *supra* n. 16, at 27.
29 R. Gilpin, *US Power and the Multinational Corporation*, 45 (Basic Books 1975).
30 M. Mastanduno, *Do Relative Gains Matter? America's Response to Japanese Industrial Policy*, 16(1) Intl. Sec. 79 (1991).
31 A. Stein, *The Hegemon's Dilemma: Great Britain, the United States, and the International Economic Order*, 38 (2) Intl. Org. (1984).
32 Roberts et al., *supra* n. 19, at 5.

Economic interdependence may still deepen, especially with 'security allies': a phenomenon often shown in the historic literature looking at free trade and security arrangements.[33] Between security competitors, however, economic interdependence is likely to fragment – or, at least, become of strong concern. Writing in 1978, Gilpin already warned that '[t]he ironic consequence of the reintegration of the major communist economies into the world economy may well be greater state intervention in the market economies rather than the lessening of state intervention in the communist economies'.[34] These phenomena are eerily familiar to today's context, in which economic cooperation among 'like-minded countries' (US, Europe, Japan, for example) is poised to intensify, while economic interdependence with the economic and security rival (US-China, in particular) is under close scrutiny.

2.2 What are the implications of this reassessment?

The friction, or dilemma, which states find themselves in is one between expanding their economic affairs, which increases their interdependence and decreases their room for national manoeuvre, while simultaneously desiring this manoeuvrability, or national political autonomy. Robert Gilpin captured this dilemma like this: 'at the same time that states want the benefits of free trade, foreign investment, and the like, they also desire to protect their political autonomy, cultural values, and social structures'.[35] At any given time, these different strategic interests must be given prioritization – a hierarchy: e.g., more national (economic or political) autonomy over commercial profit. This prioritization will in turn condition the economic strategies adopted (e.g., more defensive over offensive; increased coercion and inducement).

Strategic interests are, of course, not fixed in place: states can (and do) simultaneously strive for *geostrategic* (e.g., safeguard regional stability), *commercial* (e.g., commercial market access) and *national economic* (e.g., economic stability; limited dependence), *value-based* (e.g., protecting human rights, democracy, environment), *support global norms and global public goods* (e.g., global health governance, fighting climate change), or *technology and innovation* (e.g., maintain leadership, set standards) objectives. Naturally, these goals are not clear cut: major overlaps exist between all these goals and they may be reciprocal (i.e., economic power ultimately undergirds military power; innovation undergirds economic power; geostrategic interests may support global norms, etc.). At the same time, there is an inherent friction between some of these objectives, such as securing global flows of

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[33] *See* e.g., J. Gowa & E. D. Mansfield, *Power Politics and International Trade*, 87(2) Am. Political Sci. Rev. 408–42 (1993).

[34] Gilpin, *supra* n. 16, at 62.

[35] R. Gilpin, *Global Political Economy: Understanding the International Economic Order*, 80 (Princeton University Press 2001).

resources and market shares necessary to support commercial interest may be in friction with interests to protect the national economy from the vulnerabilities these interdependencies harbour for the autonomy of states.

The realist shift in the global economy described above (and a more 'relative gains' mindset) alerts us to a shift, not least, in the hierarchy of strategic interests. This, in turn, will condition which economic strategies they may adopt (e.g., more defensive over offensive; increased coercion and inducement). We can capture these developments with the concept of geoeconomics.

2.3 What is the link to open strategic autonomy?

Open strategic autonomy, like related concepts popping up elsewhere, is an expression of this transition in strategic objectives of economic policy. While other (domestic) factors may also influence this shift, it is primarily the structural geoeconomic changes in the global economy (only sketched here) which re-shuffled the previous balance between interdependence and autonomy. This observation does, of course, not tell us how far this pendulum may swing back, or what specific mix of policies we can expect. But the geoeconomic dimension in the global economy allows us to situate individual policies (and narratives of autonomy etc.) in a broader pattern, which deserves an important point of reference for academics and policymakers alike. The inherent friction between different objectives is not only a theoretical curiosity, but also a significant hurdle in applied policy, as the next section demonstrates.

3 AN AUTONOMOUS EU TRADE TOOLBOX

These frictions are laid bare in the EU's open strategic autonomy debate. In its framing of the equation, DG Trade (and DG Competition) has pushed back against overly emphasizing the risks (or shortcomings) of economic engagement. 'Openness and engagement are a strategic choice' and the EU's broad network of trade agreements helps it to 'fulfil its geopolitical ambitions globally', Director-General of DG Trade Sabine Weyand has cautioned. 'Open strategic autonomy is a mindset which means we act together with others, multilaterally, or bilaterally, wherever we *can*. And we act autonomously wherever we *must*'.[36] What remained unclear is where '*can*' ends and when '*must*' begins.

Others in the Commission, first and foremost Commissioner Breton (DG Internal Market), continue to stress the autonomy (or sovereignty) side of the equation. 'In a world that is increasingly intertwined, our dependencies, in times of crisis, become vulnerabilities',[37] Breton often warns. Europe is facing a 'technological war' between the

[36] S. Weyand, *Comments on Trade Talks Podcast* (17 Jan. 2021).
[37] T. Breton, *Our (European) Union Makes us Stronger*, Blog post (European Commission, 27 Aug. 2021).

US and China which requires it to 'lay the foundations of its sovereignty'.[38] Similar discrepancies on the open strategic autonomy equation exist between Member States.

Despite many liberal agents in the Commission insisting on the still larger value of 'openness' (as opposed to 'autonomy'), EU trade policy have seen a tilt to the inverse, i.e., to the autonomous end of the equation. To better understand the direction and scope of related, yet different, autonomous measures being introduced in EU trade (and economic policy), I have categorized them in four policy baskets according to the goals they seek to address: *(1) tackle economic distortions; (2) defend against economic coercion; (3) link values and sustainability; (4) critical infrastructure & supply resilience.* The policies discussed in this section, outlined in the table below, are only briefly surveyed with the goals of drawing a picture of EU autonomous trade measures. This picture is not comprehensive and primarily considers trade instruments which are in major flux. A full sense of EU autonomous action would require an even more comprehensive look at EU economic policy and regulation – including in, but not limited to, digital markets and innovation space – which however goes beyond the scope of this article.

Table 1

Tackle Economic Distortions	*Defend Against Economic Coercion*	*Link Values and Sustainability*	*Critical Infrastructure & Supply Resilience*
Trade Defence Instruments	Blocking Statute	CBAM	Investment Screening
Foreign Subsidy Instrument	INSTEX	Due Diligence	5G Toolbox
International Procurement Instrument	Anti-coercion Mechanism	Human Rights Sanctions	Export Controls
Enforcement Regulation	Financial Resilience		Supply Security
Chief Trade Enforcement Offer			Industrial Tools

[38] T. Breton, *Europe: The Keys To Sovereignty* (European Commission, 11 Sept. 2020).

3.1 The first basket: Tackle economic distortions

Autonomous measures in this basket concern primarily economic interests, such as mitigating damages suffered by the EU market and its companies because of asymmetries in market openings (reciprocity), or from unfair and unbalanced trade practices (level playing field).

Brussels reformed its trade defence instruments (TDIs) in 2017 to protect the EU from subsidized Chinese products 'dumped' on the single market. Beijing's argument that its WTO accession terms granted it automatic emancipation from a *non-market* to a *market economy* in 2016, despite far from representing one, complicated EU defences. The TDI reform, which the WTO found to be lawful,[39] retained the EU's ability to defend its market against dumped imports without having to rely on the *non-/market* distinction. However, the instruments were unable to tackle distortions in the single market caused by companies subsidized by foreign governments. To fill this gap, the Commission is currently asking for powers to scrutinize the single market for foreign subsidized companies and to intervene if necessary, such as by blocking identified firms from acquiring others or excluding them from public procurement.[40]

With a view to defending EU trade rights against another country even if the dispute settlement at the WTO (or within a free trade agreement) were blocked and the country refused to join the alternative multi-party interim appeals mechanism, the EU also equipped itself with a tool to enforce its claims unilaterally. The reformed Enforcement Regulation, active since February 2021, allows for defensive measures such as levying tariffs or restricting the application of intellectual property rights.[41] Meanwhile the Chief Trade Enforcement Officer, a new position created in 2020, is tasked to make sure that trade partners meet their FTA obligations, including market opening and sustainability commitments, and enforce them if necessary.[42]

In areas in which market opening remains highly unbalanced and international commitments have produced few results, such as government procurement and the WTO's *Government Procurement Agreement*, the EU has commenced (again) negotiations in view of adopting the International Procurement Instrument (IPI).[43] If it

39 World Trade Organisation, *DS471: United States – Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China* (13 Feb. 2014).

40 European Commission, *White Paper on Levelling the Playing Field as Regards Foreign Subsidies*, COM (2020) 253 final (Brussels, 17 June 2020).

41 European Union, *Regulation 2021/167 Amending Regulation (EU) No 654/2014 Concerning the Exercise of the Union's Rights for the Application and Enforcement of International Trade Rules* (Brussels, 12 Feb. 2021).

42 European Commission, *Chief Trade Enforcement Officer* (Brussels, 3 Feb. 2021).

43 European Commission, *Proposal for a Regulation of the European Parliament and the Council on the Access of Third-Country Goods and Services to the Union's Internal Market in Public Procurement and Procedures Supporting Negotiations on Access of Union Goods and Services to the Public Procurement Markets of Third Countries* (Brussels, 21 Mar. 2012).

is adopted (almost a decade after it was first proposed), it could push third countries to grant EU firms reciprocal procurement market access, otherwise their single market access could be limited.

3.2 The second basket: Defend against economic coercion

In response to US secondary sanctions on Cuba and Iran, the EU dusted off its 1996 Blocking Statute, a law that prohibits Europeans from complying with foreign sanctions and allows the recovery of financial damage. However, its practical effect was almost zero. EU firms whose businesses are, in reality, tied to a US-dominated financial world tend pre-emptively to comply with American sanctions.

In another attempt to bypass US sanctions, France, Germany and the UK created the Instrument in Support of Trade Exchanges (INSTEX) in 2019, since when six more countries have joined. The aim was to ensure the continuation of trade between Europe and Iran and thus meet the European side of the bargain regarding the Joint Comprehensive Plan of Action. However, its usefulness remains questionable: its first – and only – transaction to date was the export of medical goods, a category that is exempt from US sanctions in any case. INSTEX suffers from a lack of political support, not least because the US signalled it might impose sanctions itself should non-humanitarian trade be facilitated.

The far-and-wide reach of US sanctions, coupled with a growing concern over China's coercive economic potential, led to a joint declaration by EU institutions in February 2020 to 'deter and counteract coercive actions by third countries'[44] by developing a novel anti-coercion instrument. The Commission intends to equip itself with the powers to take 'prompt, coordinated trade, investment or other policy measures' to deter and retaliate, if necessary.[45] At the time of writing, the design of this instrument remains under negotiation. Additionally, the Commission vowed to increase financial resilience by strengthening the role of the Euro in international trade and wean itself off 'excessive dependence on the dollar', as High Representative Borrell declared,[46] and to ensure more 'rapid, robust and effective implementation and enforcement of EU sanctions'.[47] This task would link back to the Chief Enforcement Officer.

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[44] *Joint Declaration of the Commission, the Council and the European Parliament on an Instrument to Deter and Counteract Coercive Actions by Third Countries*, Official Journal of the European Union, C 49/01 (2021).

[45] European Commission, *Inception Impact Assessment: Instrument to Deter and Counteract Coercive Actions by Third Countries* (Brussels, 17 Feb. 2021).

[46] J. Borrell, *Taking Action to Protect Our Economic Sovereignty*, European External Action Service Blog (25 Jan. 2021).

[47] European Commission, *The European Economic and Financial System: Fostering Openness, Strength and Resilience*, COM(2021) 32 final (Brussels, 19 Jan. 2021).

3.3 The third basket: Link values and sustainability

A stronger promotional link between EU values and sustainability has been front and centre in the new trade strategy ('sustainability' ranks among the most widely used terms in the document). Although these issues have been incrementally included in EU trade agreements in recent years, the Commission has now vowed to advance them more autonomously.

The heart piece of this, a carbon border adjustment mechanism (CBAM) (a component of the EU *Green Deal)* is set to place a carbon price (or tariff) on a limited (but growing) number of polluting goods (e.g., cement, electricity, fertilizer, iron and steel, aluminium) entering the EU if they are not subjected to carbon prices in their origin.[48] CBAM is thus not only a sustainability-linked trade instrument, but one which seeks to maintain a level playing field for EU firms subjected to carbon pricing under the EU's carbon market (Emissions Trading System (ETS)), which, without similar pricing of foreign products, would struggle to compete. Equally, the mechanism aims to reduce risks of 'carbon leakage', by which EU carbon reduction efforts would be offset by increasing emissions outside the Union, e.g., through relocation of production. Legal, economic and political ambiguities of the CBAM remain challenging. Potentially significant trade disruptions and retaliation by other states have aroused strong opposition.

The Commission also intends to table mandatory due diligence requirements on firms' supply chains. Such legislation could make EU companies liable under EU trade law to human rights and environmental violations in their global supply networks and enable the Commission to take action by blocking such imports, for example.[49] Depending on how broad such an instrument would be, it could have significant implications regarding the EU's ability to enforce sustainability interests. For example, as part of this agenda, the Commission proposed a regulation to minimize (EU-driven) deforestation, which sets mandatory due diligence rules for importers of specific good associated with deforestation to ensure that only deforestation-free products enter the EU market.[50]

Meanwhile, a new human rights sanctions regime,[51] adopted in late 2020, promises to make EU sanctions against individual abusers more flexible and targeted, irrespective of the target's country of origin. However, sanctions continue to require unanimity (and thus entail horse-trading) in the Council, with no

[48] European Commission, *Proposal for a Regulation of the European Parliament and of the Council Establishing a Carbon Border Adjustment Mechanism*, COM(2021) 564 final (Brussels, 14 July 2021).

[49] I. Zamfir, *Towards a Mandatory EU System of Due Diligence for Supply Chains*, European Parliamentary Research Service (Oct. 2020).

[50] European Commission, *Questions and Answers on New Rules for Deforestation – Free Products*, Press Corner (17 Nov. 2021).

[51] European Council, *EU Adopts a Global Human Rights Sanctions Regime*, Press Release (7 Dec. 2020).

specific criteria concerning when they should be employed, or how they relate to other sustainability issues such as climate cooperation.

3.4 The fourth basket: Protect critical infrastructure and supply resilience

The protection of critical infrastructure and supply chains attained growing importance in recent years, a trend which was catalysed during the supply shortages during the 2020 Covid-19 economic crisis.

Perhaps most prominently in this basket, the EU adopted for the first time an investment screening regulation (in force since October 2020), which followed on the heels of China's state-directed investment campaign targeting European advanced technology firms. The EU regulation promises to better monitor foreign investments entering the single market and support Member States in their assessment whether to intervene. The Commission can only raise concerns with capitals, which have adopted screening mechanisms of varying scope and design (some countries have yet to introduce one).[52] But the regulation is responsible for kickstarting a much-needed debate on the security implications of economic exchanges more broadly. The Commission has since called on Member States to be 'vigilant and use all tools available at Union and national level to avoid that the current crisis leads to a loss of critical assets and technology'.[53] In November 2021, it published data showing that under the new EU information sharing system set up by the regulation, over 400 transactions were already notified to Brussels, 14% of which received more in-depth screening.[54] Similarly, the EU compromise to tackle the vulnerabilities of the 5G network infrastructure – the 5G toolbox – has not prompted a uniform EU response; but it has still contributed to risk awareness and mitigation action in Member States.[55]

The EU also achieved a breakthrough in reforming its dual-use export-control regime.[56] The export of cyber surveillance technologies, which may be used to violate human rights, were particularly concerning the negotiators (especially the European Parliament), linking this instrument to other baskets, also. While the reformed regime offers easier ways of harmonizing export controls enacted in one

52 European Commission, *List of Screening Mechanisms Notified by Member States* (16 Feb. 2021).

53 European Commission, *Coordinated Economic Response to the COVID-19 Outbreak*, COM(2020) 112 final (Brussels, 13 Mar. 2020).

54 European Commission, *Trade and Security: Commission Highlights Work to Defend EU Interests and Values* (Brussels, 23 Nov. 2021).

55 NIS Cooperation Group, *Report on Member States' Progress in Implementing the EU Toolbox on 5G Cybersecurity* (Brussels, 24 July 2020).

56 European Commission, *Commission Welcomes Agreement on the Modernisation of EU Export Controls* (Brussels, 11 Sept. 2020).

Member State across the Union, the EU was unable to define more specific Europe technological advantages – its technological frontier – and how export controls can support these, for example.

Finally, supply-chain resilience, which runs through all the baskets, has moved into the public spotlight during Covid-19 pandemic, not least in response to powers coercively leveraging their position. In a review of strategic dependencies in its supply chains in 2021, the Commission identified 137 products in six sectors as risky (raw materials, batteries, active pharmaceutical ingredients, hydrogen, semiconductors, and cloud & edge technologies). Other sectors, including renewables, energy storage, and cybersecurity, are expected to be subjected to similar reviews.[57] For critical raw materials, the Commission identified eighty-three materials necessary to the development of nine strategic technologies, the supply of thirty of which was identified as risky due to concentration or scarcity,[58] and an accompanying Action Plan suggests a range of measures to address these supply risks.[59] Similarly, twenty-two sensitive technologies across six industries were recently identified by the Commission which 'help to decide which technologies are important for technological sovereignty [and] where support from different EU programmes and instruments can address such challenges'.[60] To this end, an EU Observatory of Critical Technologies will be established to monitor and analyse sensitive technologies, their potential applications, value chains, needed research and testing infrastructure, desired level of EU control over them, and existing gaps and dependencies.

Different instruments – how to go about addressing these vulnerabilities – are being discussed. Some EU officials have stressed the need for *autonomous* action, such as strengthening EU industrial and technological capacity through investments to decrease foreign dependence. Different plans are being debated and introduced which aim to give EU governments and the Commission more active roles in supporting the development of strategic value chains in Europe. Hydrogen energy, batteries, cloud computing and semiconductor industries have all been cast in a 'critical' light to advance Europe's green and digital ambitions, and have been fashioned with industrial plans under the *Important Projects of Common European Interest* (IPCEI) framework, for example.[61] Other, more 'open' measures, including

57 European Commission, *European Industrial Strategy* (Brussels, 5 May 2021).
58 European Commission, *Critical Raw Materials for Strategic Technologies and Sectors in the EU – A Foresight Study* (2020).
59 European Commission, *Critical Raw Materials Resilience: Charting a Path Towards Greater Security and Sustainability* (2020).
60 European Commission, *Action Plan on Synergies: Between Civil, Defence and Space Industries* (22 Feb. 2021).
61 These include, inter alia: (i) Clean, connected and autonomous vehicles; (ii) Smart Health; (iii) Low CO2 emissions; (iv) Hydrogen technologies and systems; (v) Industrial Internet of Things; (vi) Cybersecurity.

industrial cooperation and supply chain partnerships with allies or expediated efforts to reform the WTO and other multilateral bodies to address these matters, are also discussed and advanced.

Semiconductors, in particular, is a sector which has drawn major interest as a critical supply chain which requires both protective and promotive action – autonomous and openness – to ensure EU sovereignty, with on-shoring more manufacturing in Europe by way of lavish subsidies emerging as one instrument, while research, trade and industrial cooperation agreements with allies as another. How much 'autonomy' or 'openness' will feature in these identified critical sectors remains an open question (or tussle).

4 SOLVING THE EQUATION?

With all these autonomous policies in the pipeline, the EU looks to be tipping the scales in its trade policy. Has *open strategic autonomy* turned a corner on its trade agenda of openness, liberalization and international cooperation? Does the autonomous side of the equation now outweigh the openness side?

The short answer is: not quite. For one, DG Trade at large remains staunchly wedded to its liberal rationale. 'We need to look at how to build resilient supply chains, based on diversification', (former) Trade Commissioner Phil Hogan tried to swing an overly inward-looking debate in early 2020.[62] Diversification means, first and foremost, opening more global markets, not less. The trade strategy echoes this view repeatedly: resilience is best served by a 'stable, rules-based trading framework, opening up new markets to diversify sources of supply, and developing cooperative frameworks for fair and equitable access to critical supplies'. As the strategy makes clear, multilateral reform of the WTO, not unilateral action, is the best way to achieve EU trade goals. Climate and trade policy, digital taxation and anti-subsidy action are best coordinated and regulated multilaterally, it emphasizes. It also reiterates in familiar terms that it is the trade agreements, not defensive barriers, that provide the EU with 'platforms for enhanced cooperation pursuing our values and interests'. Dialogue and exchange with the US, China and other countries are 'in support of the EU's geopolitical interests', the strategy emphasizes.

The trade strategy strongly underlines international cooperation as fundamental to open strategic autonomy. But it lacks some inspiration in terms of how such cooperation could strengthen resilience to geo-economic shocks and push sustainable economy beyond the evergreen referral to 'diversification'. Supply chain security, greening of the economy, and the regulation of critical technology are

62 European Commission, *Introductory Statement by Commissioner Phil Hogan at Informal Meeting of EU Trade Ministers* (Brussels, 16 Apr. 2020).

among the major concerns in many global capitals for which trade and investment policy requires to be adopted to. To address the new challenges in the global economy, EU trade policy will have to go beyond market opening FTAs, reviving the WTO, and adding some unilateral controls. Technology, environmental, security and economic matters must be considered as a whole – in domestic as much as in foreign policy.

Indeed, first signs emerge for such a more comprehensive trade and investment agenda which goes beyond the simple 'open' or 'autonomous' dichotomy. The newly minted EU-US Trade and Technology Council (TTC), formalized during President Biden's first visit to Europe, is an ambitious cooperation agenda stretching far beyond traditional trade issues into digital regulation, supply chain security, critical infrastructure, investment screening, technical standards, green technology, and many more issues.[63] Cooperation is particularly geared towards those fields where autonomous policies have been forthcoming in the EU (and the US). While the working groups will have to deliver concrete cooperative action, the enthusiasm on both sides to re-engage in bilateral dialogue indicates a willingness to marry the autonomous with the open. The EU has also pushed for a new global infrastructure agenda – the Global Gateway – in which it makes explicit its commitment to international rules.[64] In one respect, the Global Gateway can serve as the global dimension of the EU's industrial policy by developing and integrating with global markets based on its domestic industrial goals, supporting green and digital economic transitions, supply chain security, and other issues recently framed in more 'autonomous' terms. As such, open strategic autonomy is increasingly becoming a practiced reality, rather than a theoretical ambiguity.

But while an approach emphasizing both defensive and offensive action is possible, what is missing is a serious debate about what precisely the different 'geopolitical interests' and values, as the strategy calls them, are and how they rank in importance to one another should they conflict with one another. It is the most difficult aspect of any strategy, admittedly – but it is also the most important one. Consider, for instance, the consensus on the EU-China Comprehensive Agreement on Investment (CAI) achieved, in principle, in the twilight of 2020. The deal is now on ice following a round of Chinese (counter) sanctions on EU parliamentarians and academics. But even before these rounds of sanctions, the deal had generated significant opposition. Grievances include the weak, non-conditional link to promoting human and labour rights in China, the minor economic

[63] European Commission, *EU-US Trade and Technology Council: Commission Launches Consultation Platform for Stakeholder's Involvement to Shape Transatlantic Cooperation*, Press release (Brussels, 18 Oct. 2021).

[64] European Commission, *Joint Communication: The Global Gateway*, JOIN(2021) 30 final (Brussels 1 Dec. 2021).

concessions (on market access and the level playing field) granted, the forceful push from Berlin and Paris amid changing European public opinion on China, and the strategic blunder of concluding the deal days before an eager, pro-European Biden administration took charge. Would transatlantic coordination and joint pressure against Chinese practices not ultimately achieve more concessions – and thus effectively *more* autonomy, some observers asked?[65]

Up until the adoption by China of sanctions against members of the European Parliament, think tanks and academics,[66] the Commission and other supporters casted the deal as a fundamental expression of open strategic autonomy: engagement in economic and non-economic concerns, although no panacea, remains fundamental if the EU is to have influence, and for levelling the playing field, a pre-condition for a competitive EU industry. Should European interests and values be left unsatisfied by the deal, the autonomous policies under development could and would flank any EU strategy with China, the Commission promised. The debate over the EU-China investment agreement exemplified the difficulty for the Union how a multitude of interests are brought under one roof. Where does cooperation end, where does competition start and how do they reinforce each other? These are the kind of strategic questions that matter if open strategic autonomy is to become a useful framework for the EU's geo-economic strategy.

Naturally, there are trade-offs and tensions in pursuing different interests all crammed under 'open strategic autonomy': introduce barriers which are too significant and risk starving EU industry of necessary revenues and networks to develop competitive businesses; do less and risk security, environmental or technology leakages which may equally disadvantage the EU and its interests. Rather than magically resolving these multiple tensions, open strategic autonomy should guide Europe in terms of identifying multiple interests, negotiating trade-offs and generating internal support for a clear set of priorities. Tensions must be expected and tolerated, and certain costs must be accepted whereas others may be rejected. Rather than trying to reconcile competing interests along the *openness-autonomy* spectrum, the EU should attempt to balance them. Engagement and cooperation with Beijing, Washington and others remain critical – but neither can engagement be an end in itself. Where are Europe's red lines? When does it signal its readiness to walk away? Open strategic autonomy is not a policy or strategy in and of itself: it can only be a supportive element for a European discussion about priorities and how they scale against one another.

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65 A. Small, *Europe's China Deal: How Not to Work with the Biden Administration*, European Council on Foreign Relations, Commentary (21 Jan. 2021).

66 M. Parry, *Chinese Counter-Sanctions on EU Targets*, European Parliamentary Research Service PE 690.617 (May 2021).

Ultimately, balancing this equation will require a comprehensive and sound EU geoeconomic strategy – one which can tie together the four clusters discussed in this article. Whether this big-ticket item is achievable remains doubtful. In the meantime, though, EU trade and investment policy is already responding to the significant shifts in the global economy.