POLICY MEMO

Transatlantic Paralysis: The US-EU Trade Policy Stalemate and the European Union’s Democratic Deficit

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Introduction
What is often labeled the democratic deficit in governance of the European Union (EU) is not a flaw or bug in its architecture, it is a design feature. From its earliest days in the Second World War's chaotic aftermath, European integration “was essentially an elite project, pursued at a distance from the daily concerns of the national populations in Western Europe.” Also formed as a response to the economic disintegration following the Depression and World War Two, the General Agreement on Tariffs and Trade (GATT) was similarly removed from national or populist politics. It too was an elite, top-down initiative designed to embed nations in a system of international rules largely articulated by technical experts, enforced by a form of international courts, and far removed from national and populist politics.

Many of the intellectual proponents of both supranational institutions, from the Austrian School of economics, the ordoliberalists emerging in early-20th century Germany, to the London School of Economics indeed shared a distrust of American-style democracy, let alone the various parliamentary democracies whose failure led to the disasters of the 1930s and 1940s. Over the last fifty years, the institutions put in place after World War II have been perfected and have, to a certain extent, ossified. Many of the difficulties in achieving greater US-EU economic coordination in the 21st century have their origins in the institutional design and the subsequent early implementation of early European Community rules during the post-war period. A brief overview of the history of European integration, and the political thinking behind it, helps explain the current paralysis in contemporary transatlantic cooperation, including in a joint approach to the challenge of Chinese mercantilism and its growing international reach.

Origins of the Institutions of European Integration
Starting in the 1930s, the enormous economic, political, and human costs of the Depression and then the Second World War led to reflection on the failure of European democracies. This failure was, of course, most evident in Germany and Italy, but touched France, the United Kingdom, Austria, and Eastern Europe as well. None of the post-World War I democracies proved capable of resisting the onset of the three faces of fascism, and the long depression contributed to perceptions of secular stagnation and to flirtation with socialist or communist programs.

Some form of European integration coupled with ideas concerning a global, rules-based order (both economic and political) were debated throughout the 1930s and 1940s. This discussion extended to the United States as well, often including as important contributors exiled intellectuals who had fled fascist regimes. Since the US had assumed the role of guarantor of the political and economic order so as to avoid a repeat of the first half of the century, the relatively more pragmatic solutions ultimately adopted after the Second World War bore the strong imprint of US leadership. US leaders strongly supported the Bretton Woods system and the GATT, which they viewed as a means to limit trade protectionism, financial instability, and renewal of imperialist or autarchic policies on the European continent. Added to this was the growing perception of the threat communism posed due to the Soviet ally’s victory in the War and the attractiveness of its economic ideology after the perceived failures of classical economics during the 1930s. Secretary of State Cordell Hull summed up this somewhat aspirational thinking in his rationale for supporting the GATT’s formation:

I reasoned that, if we could get a free flow of trade…so that one country would not be deadly jealous of another and the living standards of all countries might rise, thereby eliminating the economic dissatisfactions that breed war, we might have a reasonable chance for lasting peace.
WWII Allies, led by the United States, also wanted to place boundaries on the dominant German economic (and military) power so as to prevent a repetition of the events of the first half of the 20th century. The Marshall Plan was the first step toward European integration as it required a cooperative, Europe-wide plan for the aid so desperately needed throughout the war-torn continent. In addition, establishment of the European Coal and Steel Community (ECSC) was a crucial step in establishing the supranational institutional structure needed for European integration. The European Court of Justice (ECJ) was established to adjudicate disputes within the nascent ECSC.

The six founding members of the ECSC, realizing the success of their cooperation in stabilizing a key industrial sector and keeping German might tied to the recovery of its neighbors, negotiated the 1957 Treaty of Rome which founded the European Economic Community (EEC). At the outset this was a commercial agreement among the six members. Importantly, the Treaty also extended the role of

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**Figure 1. Timeline of Europe’s major economic and political treaties**

**European Integration Events**

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1947</td>
<td>GATT is established</td>
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<tr>
<td>1948</td>
<td>Marshall Plan is passed</td>
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<tr>
<td>1951</td>
<td>Treaty of Paris is signed</td>
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<tr>
<td>1952</td>
<td>European Court of Justice is founded</td>
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<tr>
<td>1957</td>
<td>European Economic Community is founded</td>
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<tr>
<td>1957</td>
<td>Treaty of Rome is signed</td>
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<tr>
<td>1951</td>
<td>European Iron and Steel Community is formed</td>
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<tr>
<td>1963</td>
<td>Major rulings on European Integration by ECJ</td>
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<tr>
<td>1973</td>
<td>UK, Ireland, Denmark enter EEC</td>
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<tr>
<td>1981-88</td>
<td>Prime Minister Margaret Thatcher is in office</td>
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<tr>
<td>1989-91</td>
<td>Breakup of the Soviet Empire</td>
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<tr>
<td>1992</td>
<td>Maastricht Treaty is signed</td>
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<td>1993</td>
<td>European Union is established</td>
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<tr>
<td>1998</td>
<td>European Central Bank formally opens</td>
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<tr>
<td>1999</td>
<td>European currency (Euro) established</td>
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<td>2001</td>
<td>China enters the WTO</td>
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<tr>
<td>2007-09</td>
<td>Great Recession takes place</td>
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<td>WTO founded and replaces GATT</td>
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**World Events**

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<th>Year</th>
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<tr>
<td>1922</td>
<td>Benito Mussolini takes power</td>
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<tr>
<td>1929-37</td>
<td>Great Depression</td>
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<tr>
<td>1944</td>
<td>Breton Woods agreement is signed</td>
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<td>1945</td>
<td>World War II ends</td>
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<tr>
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Source: Author
the ECJ to cover a much broader segment of commercial law and economic integration.

The evolution of the institutions and rules governing the EEC, which the Treaty founded, provide key insights into the role of democratic oversight in the European integration project and, to some extent, for the expansion of the GATT as a complement. As can be observed in the present day, convincing formerly independent states with many unique cultural and economic characteristics (the common denominators of nation states) to combine to achieve a shared purpose, and in the process to cede important levels of national sovereignty, is not an easy task. In the historical context of halting the advance of communism and economic collapse, and pushed in this direction by the United States, European leaders chose to create supranational institutions which they empowered to exert significant control over economic and political questions. Describing this process as transforming nation states into “member states,” political scientist Christopher Bickerton stated, “For modern nation states, limits were understood as internal expressions of sovereignty,” that is, as a form of democratic political oversight, whereas, in contrast, “today’s member states view limits as external constraints upon sovereignty.”

In practical terms, the tough political decisions needed to achieve economic reform (remember that the EEC was largely commercial at its outset) were then gradually transferred to its transnational institutions. These were not subject to direct parliamentary oversight or popular elections. One assumed purpose of this transfer was to increase the efficiency of policy and economic outcomes. Importantly, it was also viewed as protection against the dangers posed by populist, demagogic, plebiscitary, or “mob” rule, which the weakness of democracies in the first half of the century too often precipitated.

This shift to what eventually became an advanced form of technocratic rule has had considerable intellectual support throughout the 1950s and to the present day. Even neo-liberal icon Friedrich Hayek had doubts about democratic control of politics based on its consequences for economic efficiency and political expedience. In his *Road to Serfdom*, he quoted Lord Acton, stating that federalism is “the most efficacious method to curb the power of the state and of the whole people.” Hayek later inspired the public choice school, which was wary of the capture of public policy by well-organized corporate or public lobbies. The Austrian School, including important thinkers like Hayek and Von Mises, also sought to embed the economic realm in a system of transnational rules beyond the control of national politics. On the continent, it exerted influence through the Mt. Pelerin Society and the London School of Economics, and, in the United States to some extent, through the Chicago school of neoliberal economics. A recent history of neoliberalism’s importance in shaping supranational institutions states that “the focus of both German ordoliberalism and Austrian economics is not on the economy as such but on the institutions creating a space for the economy.” In addition, it also observes, these institutions had to be rules-based and established and operated by experts and not by politicians.

In France, pragmatic thinkers sought to contain German economic and political power while also maintaining French influence. With some prodding by Marshall, Robert Schuman and Jean Monnet, the visionaries of European integration, gradually accepted the need for some form of Federalist-type integration. Neo-Hegelian philosopher Alexandre Kojève, who was then working in the French ministry of economic affairs, influenced both. The Hegelian notion of enlightened civil servants guiding the march of history, which Kojève believed to be incarnated in some form of united Europe led by France, helped solidify support for European integration. Distrust of mass democratic behavior also animated the thinking of these pioneers.

The real impact on liberal democratic forms of oversight and primacy during this transition to the technocratic governance
that perfected European integration (and also the global trading system) is most clearly visible in early rulings of the ECJ. Separate ECJ decisions in 1963 and 1964 set the stage for an activist court and expansion of the EEC into its present-day form. The 1963 decision affirmed that EEC citizens and other legal persons could invoke the Treaty of Rome (or other foundational Community treaties such as Euratom) to challenge national laws. The second a year later affirmed the primacy of European law over national law and thus had the "direct effect of displacing conflicting national law without national legislation."

The "revolutionary" nature of these rulings stemmed not only from their enshrining supranational rules at the expense of national laws but also from their establishment of the ECJ (much like Marbury vs Madison in the United States) as the final arbiter of Community law. Also revolutionary was that none of these foundational decisions had any explicit basis in the Treaty of Rome or subsequent treaties further expanding the Community. In this way, the ECJ established itself as a supreme court interpreting a constitution that had not (and never would be) adopted by the EEC or its successor the European Union (EU), despite several attempts to win approval of such a document by voters.

The six ECJ judges representing the original EEC members were clearly pro-integration and impelled by the need to act so as to move the integration process forward more rapidly than any political process had done up until the 1960s. A recent history of the ECJ by Vera Fritz characterizes these revolutionary rulings (which were followed in 1979 by another that completed the process of establishing the primacy of the ECJ and of European law in general) as informed by a "teleological" interpretation of EEC foundational treaties, meaning that it is a question of a method (of interpretation) particularly appropriate to the founding treaties of the Community, because they are entirely imbued with teleology; and that behind their concrete objective of economic, financial and technical order is a longer-term goal, that of political unity. This interpretation has echoes in the Neo-Hegelian concept of the march of history that Kojève deemed so important.

Adumbrating Fritz’s analysis, English historian Parry Anderson emphasizes the German National Socialist and Italian Fascist backgrounds of several judges, the lawyers who argued the cases, and an influential, industry-backed German legal institute that worked to influence the ECJ, at least some of whom cited national socialist judicial theoretician Carl Schmitt as a guidepost. According to Schmitt, at certain critical moments of decision, decisive ‘leadership’ bypassing ‘petty’ democratic concerns is required to move history forward.

Attributing these decisive ECJ rulings fully to Schmitt’s influence is likely a step too far. However, their practical impact was a leap forward in the foundation of a quasi-constitutional order that far exceeded the terms of the negotiated Treaty of Rome and that set the groundwork for the long-term dominance of European over domestic law, thereby propelling the integration process even further forward. A French Christian Democrat jurist serving as President of the Court led the charge to educate domestic European judges in these principles, which domestic courts came over time to largely accept.

Development of the GATT and WTO
Beginning with developed countries and eventually extending to much of the world, the GATT firmly established agreement on a global system of trade law. However, it lacked strong enforcement powers and was further handicapped by questions of north-south divisions left over from the colonial era. Some nations, European ones in particular, insisted on their right to protect national agriculture, some crucial industries, and commerce with former colonies. Europeans
further sought to shape the system so that it did not interfere
with the Keynesian quasi-welfare state economies established
after the WWII. As the European economies also began to
face growing competition from lower cost producers located
in East Asia and elsewhere and as the dynamism of the "trente
glorieuse" economies began to wane, their leaders searched
for political cover under which to adopt better macroeconomic
policies. The perceived success of the Thatcher and Reagan
governments in the 1980s served to strengthen, through
academics and major business and economic institutions on
both sides of the Atlantic, the increasing influence of what
came to be called neo-liberal economics. Like the United
States, Europe faced stagnant growth, inflation, and high
unemployment during the 1970s. However, both national
and EEC political leaders were reluctant to impose the radical
changes accomplished by the Anglo-Saxon pioneers.

In this environment and supported by ECJ court decisions,
the EEC began moving more aggressively toward a single-
market system and later incorporated the currency union.
Among influential staff at the GATT, Jan Tumlir, an acolyte of
Hayek, used his position as research director and his rich
circle of like-minded economists to formulate structures for
strengthening GATT. To aid in this reform, Tumlir brought
in two lawyers who had studied with Hayek. Together with
them and with ordoliberal18 German colleague and long-time
GATT adviser E-J Mestermacker, these technical experts
worked out the idea of GATT being part of an "economic
constitution" and a mechanism through which to increase
its effectiveness. In an echo of the thinking behind the EEC
(which he saw as a model), Tumlir argued, "International rules
protect the world market against governments … and from
their populations." He also noted the "tendency of nationalism
to subvert economic policies of democratic states into a zero-
sum game" and worried about the capture of the state by
mass movements.19 In addition to expanding the rulebook of
global trade rules to encompass such new areas as intellectual
property rights, government procurement, and the services
sector, a key part of this reform effort was a binding dispute
settlement system inspired by the role of the ECJ. These
ideas became part of the "Uruguay Round" negotiations in
the late 1980s and early 1990s which eventually culminated in
formation of the WTO in 1995.

By the time these negotiations were well underway, the
EEC had been broadened both in terms of geography and
coverage of commercial activity, and the role of the ECJ had
been solidified. The Maastricht Treaty of 1989 resulted in the
transformation of the EEC into a "single market" with its own
currency that was then quickly broadened to include the
newly independent East European states. The concept of
the "direct effect" of WTO rulings appealed to the reformers
and eventually came to be adopted, at least in spirit, in WTO
jurisprudence, despite hesitation on the part of the United
States on this element of the new trade law.

For the Hayekian neo-liberals at the WTO, the epistemological
problem of who could make the rules protecting the
dominance of market systems was resolved in the same
general way as in the European Union, and thus the role of
Appellate Body (AB) relative to the WTO is analogous, in
many ways, to that played by the ECJ relative to the EU.20 It
allows expert, technocratic judges (having instead the less
authoritative title of "panel members") to decide disputes
between parties and impose punishments in the form of tariffs
or other restrictive measures to discipline non-compliance.

Almost from the start, the United States has criticized AB
judges’ aggressive, liberal interpretations of the rules set
up to govern the WTO agreed upon by participants of the
Uruguay Round. Specifically, the United States argues that the
mandate not to interpret the domestic law of members, make
interpretations of rules that go beyond their original intent or
meaning, and to establish its rulings as precedent with scope
beyond individual cases have all been violated by appellate
body decisions. In short, the AB acts in a manner resembling
the ECJ by distancing itself from democratic oversight and discounting the primacy of the negotiated rules set for it in its foundational document.21

How the EU Functions Today: Varieties of Democratic Deficit

The key element distinguishing what Bickerton labels the “member state” is limiting national power and discretion through external frameworks of rules.22 In the European architecture, the European Commission (EC) and the EU’s Council of Ministers constitute the most powerful components of this external framework. At the operational level, composing the latter are ministers from member states in such areas as finance, economics, and trade. The responsibilities of the EC and Council are proposing legislation and setting budgets, and a few times per year, the European Council brings together heads of state to set the EU’s overall political direction. The popularly elected European Parliament does not have the power to propose legislation but can only veto measures (including trade agreements) proposed by the EC and the Council of Ministers. Thus, policy is, in effect, made via a collegial process wherein like-minded experts and national leaders build consensus, often in deference to the Commission’s technocratic experts or permanent staff members of important national ministries. Meetings of the Council of Ministers are, in the words of Bickerton, “used as a place where a shared sense of purpose can be forged to tackle recalcitrant populations.”23

Imposing fiscal discipline on southern European countries during the Great Recession provides an example of the operation of this process, which bypasses national legislation and ties the hands of national leaders without needing to seek a popular mandate. The ECJ often serves as the enforcer of agreed-upon rules, especially after 1979 when it “delivered the last key judgment of the court as a driver of European unity, the market-levelling verdict of Cassis de Dijon, ruling that any product on legal sale in one country of the Community was vendible in any other.”24 EU regulations driven by the Commission enabled major changes such as deregulation of the telecommunications sector and of some parts of the transportation sector. ECJ jurisprudence has also gradually incorporated a system of human rights protections such as gender equity for comparable work, again without working through any real democratic procedures such as would be involved in amending the US Constitution.25

Moreover, the ECJ conducts its work in total secrecy. In contrast to the US Supreme Court, whose proceedings are fully visible to the public and press, only summaries of ECJ proceedings and rulings prepared by ECJ officials are available to the public and press.26 Again in contrast to the US Supreme Court, whose judicial appointments are subject to approval by the other two US government branches, ECJ judges are appointed by member states in an opaque political process solely involving political elites.

The Treaty of Maastricht added the final dominant institution to the EU structure, the European Central Bank (ECB). Like the other institutions of European integration, the ECB works in secrecy, is independent from political oversight, and lacks effective counterweights like those of Treasury or the Congress in the United States. The ECB does, of course, accept input from major member states, especially Germany, France, and the more economically conservative northern states. Although its only formal mandate is to ensure monetary stability, it has in practice assumed a powerful role in countering the economic impacts of the Great Recession and the COVID-19 pandemic. The ECB’s adoption of quantitative easing (QE) to counter these crises was not part of its original mandate in the Maastricht Treaty. The thinking underlying the ECB’s adoption of QE was analogous to that behind early ECJ decisions in this regard, as a comment made by ECB’s head of research to the Financial Times in February 2012 revealed: “The whole concept of getting around European rules and doing QE without calling it QE was
extremely clever,” he stated. The ECJ later ruled that, even though it contradicted Articles 123 and 125 of the Lisbon Treaty, adoption of QE was within the ECB’s mandate, and so, in effect, “Lisbon meant the opposite of what it said.”

Thus, the ECB operates in the same sort of collegial manner with respect to EC and national treasury officials as is done within the Parliament and the Council of Ministers and has the same objective—elite consensus building such as that which allowed its governors and the EC (in this case, technical experts at the International Monetary Fund are sometimes also consulted) to impose stringent austerity measures and even some fiscal reform on southern European members in order to address the effects of the Great Recession. These policies would never have been adopted if proposed within the national democratic systems of the countries involved. Even Italian Prime Minister Berlusconi was forced in 2011 to cut pensions and public expenditures after receiving a secret ultimatum from Mario Draghi, the head of ECB at that time.

This was simply another example of the “presumption…that collective processes tend to become hostage to special interests and that only the neutrality of an expert can assure [that] good governance continues.”

Sources of Conflict for Transatlantic Economic Relations

Two important areas over which the EC has asserted its primacy, from the start and with support from the ECJ, are trade and competition policy. The bodies of laws and the interpretations employed to apply them in specific cases are quintessential examples of the dominant role technical experts play in the EC. Moreover, many of the conflicts between the United States and the EU with respect to economic questions stem from these laws and their interpretations. All told, the EU has more than 90,000 pages of rules (the so-called acquis communautaire) which members must incorporate into their domestic laws and then enforce. The extreme complexity of the regulations needed to implement trade and regulatory rules, along with the divorce from political dispute-resolution by political leaders that has occurred over time, has ceded considerable power to the elites who operate the Commission. One simple example is the EU ban of agricultural products containing genetically modified organisms or growth hormones, which the EU’s own science advisors did not endorse but which was nonetheless deemed outside the scope of negotiation to resolve differences with the United States or other agricultural exporters. EU antitrust policy, seemingly targeted at US technology giants, is also not subject to negotiation, but is instead in the hands of EU regulators and courts.

The body of rules operationalizing the EU acquis and, similarly, the WTO on trade matters (the EU views itself as the guarantor of that trade institution) have become increasingly ossified. Both the EU and the WTO protect technical decisions from effective political review, and the unanimity principle for changing the underlying treaties behind both institutions makes it virtually impossible to alter them. The WTO has not undergone a major revision since its 1995 inception, and the United States and Europe, despite repeated protestations of goodwill, have failed to complete negotiations for a free trade agreement that would address many of their differences.

In the 1950s and 1960s, when Europe was recovering from the War and the Depression and combating the advance of Soviet influence, the US economy flourished, and political leaders, starting with Truman, Cordell Hull, and George Marshall, were willing to accommodate European requests for concessions deemed important to spurring domestic economic recovery. Many of these requests, such as the sanctity of the highly protectionist Common Agricultural Policy (CAP), became embedded in GATT and, later, in WTO rules. Preservation of the CAP allowed the EU to increase its share of global food exports from 8 percent in 1976 to 18 percent in 1981, partly at the expense of the United States.

The history of the Marshall Plan provides early evidence of US willingness to adopt policies to support European recovery at
the expense of domestic economic interests. In 1950, the US State Department issued a directive stating that,

whereas Washington sought nondiscrimination in world trade, it recognized that during the period in which Germany’s balance of payments is in substantial disequilibrium, it will, like other countries in the Organization for European Economic Cooperation, find it necessary to restrict imports.

The Truman administration also convinced the National Association of Manufacturers and the US Chamber of Commerce to urge members not to take advantage of European weakness to increase exports to its member states. In this way, historian Ben Steil concludes, “The Marshall Plan helped to close the (balance of payments) gap by engineering Germany’s revival as Western Europe’s primary capital goods supplier, replacing the United States.”

In addition to tolerating the CAP, a weak deutschmark, and displacement of US capital goods exports, the United States proved accommodating, at least until the European economy regained its strength in the 1960s and thereafter, to other rules benefiting European producers. Many of these concessions—including higher tariff levels on products such as automobiles, protection for major government state-owned enterprises, and preferential access to European markets for products from former colonies—were incorporated into GATT and WTO rules. Another example was the border adjustability of value-added taxes (VAT), deployed widely throughout Europe as a primary means to raise revenue but not allowed by GATT and WTO judges for laws for border adjustability of widely used taxes in the United States.

Global trade institution operations in Geneva mirrored the gradual supplantation of political oversight at the EEC and the EU. The difficulty of achieving consensus at the international political level (and often at the domestic, national level as well) helped empower the technocratic elites at these institutions. When the United States objects to decisions of trade review panels, as in the cases related to border adjustability of taxes, definitions of state subsidies, and technical details of antidumping rules, the entrenched body of experts that make up and enforce those rules resist. The United States has also drawn the line at any attempt to adjudicate challenges to restrictions based on Section 232 of US trade law, even though such restrictions are allowed under WTO rules when national security issues are involved. This is a fundamental right of sovereign nations and has long enjoyed bipartisan support in the United States.

In effect, many of the economic advantages afforded Europe by the US and then tolerated in the early years of the GATT and the EEC are now embedded in EU and WTO rules. Moreover, the democratic deficit in these institutions promotes evasion of the substantive dialogue among politically responsible actors that is required for the give-and-take that produces compromise.

The United States has now effectively closed the Appellate Body of the WTO until its judges are compelled to resist making new law and establishing broad precedents or interpreting domestic law. Each of these questions should, according to its original foundational agreement, be addressed with negotiations between WTO members and not by WTO technical staff. The United States has also been frustrated in the use of trade law to challenge EU antitrust actions, as the EU again insists that competition policy is a settled matter.

Conclusion

EU politics, which those of the WTO in many ways mirror, rely more on “elite consolidation” than on American-style, liberal democratic oversight. This formula by Italian political scientist Stefano Bartolini works in the following way: “The function of the European Parliament, which neither aggregates nor channels the wisdom of voters, from whom once the polls
close becomes completely detached is …a process in which the parties collude with one another to present the appearance of democratic assembly, behind which oligarchic coteries are comfortably entrenched. This form of governance endows the interpreters of rules with considerable power, especially as they also assume the right to ignore or move beyond more democratically-initiated foundational treaties.

As is clear, elected European leaders do address important political questions involving serious national interests when necessary. However, even these compromises, such as the recent question related to issuance of common debt, are limited by the “elite consolidation” principle and by the supermajority principle governing the European Council and the Council of Ministers. The toughest issues are thus often left unresolved or punt to experts at a lower level, such as has been the case with US-EU trade negotiations.

The abdication of a more robust pattern of democratic governance renders change difficult and thus introduces the possibility of fundamental instability in the EU. Due to the EU’s democratic deficit, US attempts to obtain satisfaction in trade or economic grievances pits more political actors subject to oversight by elected officials against technical experts invested in fairly rigid and difficult-to-alter rules. Entrenched EU and WTO rules, jealously guarded by elite consensus, represent an all-too-convenient explanation for resistance to US challenges. In addition, the EU’s increasingly aggressive efforts to perfect its model as a “regulatory superpower” leaves even less space for constructive dialogue.

One possible and increasingly powerful reason for moving beyond the current stasis in transatlantic dialogue is the rise of China as a peer competitor. The only effective means to rein in Chinese mercantilism is likely to be transatlantic cooperation (with Japan, Australia, the United Kingdom, and other allies) in crafting new and stronger WTO disciplines in such areas as state subsidies, international standards, intellectual property protection, and government procurement. Achieving any progress will require the EU to make political choices between experiencing possible harm from Chinese retaliation (to, for instance, its auto industry or such “national champion” projects as Airbus) and the need to work with allies to both sanction China and strengthen allied economies. All negotiations would be at a political level that is dormant in the current EU and would have to be revived at the expense of its current, largely technocratic operating mode. Even though the new Biden team has reached out to the EU to revive the dialogue on bilateral and WTO reform questions, early signs from Europe do not indicate a willingness to make the difficult political choices needed to support either the United States on China or to work cooperatively to increase democratic oversight at the WTO.
Endnotes

5 Irwin, Clashing Over Commerce, 421.
7 Bickerton, European Integration, 52.
8 Rosenboim, Emergence of Globalism, 159.
9 See Janek Wasserman, The Marginal Revolutionaries: How Austrian Economists Fought the War of Ideas (New Haven, CT: Yale University Press, 2019), 208ff. The leaders of this school were aggressive in networking and in placing allies in prominent positions within universities and institutions like the GAAT and the International Chamber of Commerce.
10 Slobodian, The Globalists, 6-7.
12 Vera Fritz, Juges et Avocats Généraux de la Cour de Justice de l’Union européenne (Franfurt, Germany: Klosterman, 2018), 3-5.
14 Fritz, Juges et Avocats, 153. Translation is by the present author.
15 Anderson, Ever Closer Union, op. cit. Interestingly, Hayek contemplated similar ideas. According to the historian of the Austrian School, “Hayek’s open advocacy of an authoritarian strongman who espoused a market ideology over a democratically elected socialist leader highlighted the uncomfortable tension between liberalism and democracy embedded in the new liberal programs.” On a visit to A. Pinochet in Chile in 1974, Hayek stated that “only strong leaders could introduce rules” to establish a stable democracy and a liberty cleansed of impurities. Wasserman, The Marginal Revolutionaries, 262-63.
17 Bickerton, European Integration, Chapter 3. On the importance of colonial relations, see Slobodian, The Globalists, 240-250.
19 Slobodian, The Globalists, 250-51, 256.
20 Ibid., p. 257.
21 On the US critique, see Thomas J. Duesterberg, “The Importance of WTO Reform from a Transatlantic Perspective,” Hudson Institute and Konrad Adenauer Stiftung (February, 2019). The US critique obviously reflects long-standing debates internally over the role of its Supreme Court, but has had bipartisan support extending back to the 1990s.
22 Bickerton, European Integration, 15.
23 Ibid., 36.
24 Anderson, Ever Closer Union, 5. In a 1979 critique of the ECJ by Michel Debre, the longtime Gaulist stated that the Court “arrogated itself more powers than those of the US Supreme Court.” See Fritz, Juges et Avocats, 193.
26 Ibid., Introduction.
27 Quoted in Anderson, Ever Closer Union, 14.
28 Ibid., 12.
29 Bickerton, Ever Closer Union, 187. Not a leader of any Italian political party, Draghi has recently (2021) been asked to form a government to address Italy’s economic problems, which the pandemic has exacerbated but which have roots reaching back to the introduction of the single currency.
30 Ibid., 129-30.


32 Irwin, Clashing over Trade, 584.

33 Steil, Marshall Plan, 369-70.


37 Bickerton, European Integration, 191ff. Implications of instability attributable to democratic deficit are beyond the scope of this essay.


About the Author

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Thomas J. Duesterberg is a senior fellow at Hudson Institute. Previously, Dr. Duesterberg was executive director of the Manufacturing and Society in the 21st Century Program at the Aspen Institute. From 1999 to 2011 he served as president and CEO of the Manufacturers Alliance/MAPI, an economic research and executive education organization based in Virginia.

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