

**Rett R. Ludwikowski**

Catholic University of America, United States of America

ludwikowski@cua.edu

ORCID ID: <https://orcid.org/0000-0001-7457-3096>

## **Overview of the Trade Relations Between the European Community/Union and the United States at the Threshold of Globalization and Post-globalization Era**

**Abstract:** The main goal of this article is to present to the European reader the implications of the unstable relationships between the United States and an integrated Europe. The article focuses on the trade relations between the US and Europe in the globalization era. It explains the meaning of some basic terms used by trade experts, such as globalization, regionalization, glocalization, and strategic trade. The author also tries to explore the reasons for the recent crisis of global trade. The main part of the paper reviews the major disputes between these two regions which resulted in postponing of the negotiations of the Trans-Atlantic Free Trade Agreement. As we have observed in the introduction of the article, the relationships between the European Union and the United States have always been complicated and the article presents the main reasons for these disagreements. In a time of renewed Trans-Atlantic negotiations, pro-American sentiments in Europe grew stronger, and European experts on trade and politics emphasized that the US significantly increased support for the European Deterrence Initiative (EDI). Still, with comments repeated by President Trump many times that “Europe needs its own army”, the European media began warning the readers that the crisis in US-EU relations may soon return.

**Keywords:** American unilateralism, European Community/Union, the Trans-Atlantic Free Trade Agreement, globalization, regionalization, strategic trade, the General Agreement on Tariff and Trade (GATT), the World Trade Organization (WTO), The Chicken War, Banana War, principle of parallelism, Byrd's Amendment, Carousel Procedure, zeroing.

### **Introduction**

The author of this article assumes that this study is dedicated to a reader who has a solid background in the process of European integration and transformation of trade priorities of the economic superpowers in the last two decades. This reflection

resulted in a reduction of the introductory comments to the necessary minimum explaining only the terms used in the title of this study.

Without the detailed examination of the process of European integration, let's remind the reader of only the main stages of the process of the development of the European Community and its transformation into the European Union. In the post-war era this process was launched by the establishment of the European Coal and Steel Community (in 1951 in Paris) and by signing (in 1957 in Rome) the Treaty establishing the European Economic Community and the European Atomic Energy Community – EURATOM<sup>1</sup>. In 1965, the Merger Treaty (Treaty of Brussels – implemented on July 1, 1967) unified the executive institutions of the Communities and in 1986 the Single European Act merged these three entities into a single European Community. The process was continued through subsequent Treaties: Treaty of Maastricht (1992–1993), Treaty of Amsterdam (1999), Treaty of Nice (2003) and Treaty of Lisbon (2009) which formally replaced the name of the “Community” with “Union”<sup>2</sup>.

The article focuses on the trade relations between the US and integrated Europe in the globalization era. It assumes that the trend toward protection of the common values important to all human beings, such as human rights, environment, health and food resources, began during the last decades of the twentieth century to compete with internationalization, which focused on the wellbeing of nations. Some historians look for the roots of globalization in the mediaeval era; in fact, however, the recent trend toward a development of the values protected by the global institutions became popular in social science in the last decades of twentieth century.

In the beginning of the twenty-first century, globalization as a dominant trade current was supposed to be coordinated from one center such as GATT/WTO, but the concept of the trading world looked little by little more like the map of the sea with numerous islands. The trade experts claimed that the global world was replaced by the “world of regions”. Regionalization, glocalization and recently “strategic trade” focused on the priorities of individual regions, states and individuals.

The first decade of the twenty-first century also brought successive attacks by anti-globalists on the fundamental programs presented by organizations, primarily by international banks. It was indicated that globalists' free trade assumptions do not work in practice; contemporary states led by the United States do not need free trade

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1 The Communities created by the Treaties of Rome became operational in January 1, 1958.

2 For more extended analysis of the early process of European integration and establishment of the entities such as the Council of Europe, the European Economic Area (EEA), the Schengen Area, the European Defence Agency (EDA), or the Permanent Structured Cooperation (PESCO) see, The historical development of European integration, [https://www.europarl.europa.eu/RegData/etudes/PERI/2018/618969/IPOL\\_PERI\(2018\)618969\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/PERI/2018/618969/IPOL_PERI(2018)618969_EN.pdf) (last visited on 19.04.2020). See also the author's book, *Handel Międzynarodowy (International Trade)*, IV ed. C.H. Beck, 2019, p. 127–152. (last visited 23.09.2020).

but more trade. The slogan “Goodbye Globalization” was more and more frequently used by the commentators claiming that recently we live in post-globalization era<sup>3</sup>.

They repeated the argument that Institutions, such as the World Bank or International Monetary Fund cannot spread democratic principles, which globalization was to promote, because their decision-making system is indeed undemocratic. International relations experts argued that the increase in the trade potential requires a new strategy, which means a policy differentiated based on trade partners’ aims and interests. The term “strategy” gradually adopted an almost magic meaning. The supporters of this trend emphasized that the harmonization of trade regulations that took place under the auspices of GATT and the WTO causes more damage than profits. For many years, the United States was against all GATT principles, and it was criticized for not following them. At present, the network of bilateral agreements may serve the American interests better than the network of multilateral agreements signed under the auspices of the WTO. Secondly, in their domestic policy, countries have to work out a series of tactics protecting their national industries against the harmful consequences of competition with states and corporations that are better adjusted to the changing trade conditions. The conclusion is clear: the era of global trade is coming to an end and must be replaced by strategic trade mechanisms<sup>4</sup>.

## **1. Essential trade conflicts between European Community and the United States in the early stages of European integration**

At the time the legal framework of the Communities was negotiated, the forecasts for the cooperation of the United States and a united Europe were very promising. The European Recovery Program, popularly known as the Marshall Plan (1948), confirmed the interest of the U.S. in providing aid to Western Europe helping the continent in post-war rebuilding efforts. When, however, the process of development of more independent European economic policy confronted the U.S. sponsored global trade policy, the first problems began to surface. This article focuses only on the most widely commented disputes.

One of the first examples of the growing discrepancies between US and the European Communities was so-called Chicken War, which followed the tensions

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3 A. Alcalde, J. Escribano, Will COVID-19 end globalisation? A spectre is haunting the world but it isn't COVID-19, it's the idea that the pandemic could lead to the end of globalization, <https://pursuit.unimelb.edu.au/articles/will-covid-19-end-globalisation> (last visited 23.09.2020).

4 For a broader commentary concerning the issue of alternative trade strategies, see A.V. Deardorff, R.M. Stern, M.N. Greene, The Implications of Alternative Trade Strategies for the United States, [in:] D.B.H. Denoon (ed.), (last visited 23.09.2020).

triggered by the trade negotiations in 1961, so 4 years after signing the treaties of Rome.

Looking for the roots of this conflict, we have to keep in mind that concurrent with the process of European integration, the Western World tried to develop the United States sponsored common world trade policy. The plan, announced during the Bretton Woods conference of 1944, resulted in the several conferences during which the document, the General Agreement on Tariff and Trade (GATT), presenting the major principles of fair trade was prepared, and the Protocol of Provisional Application, being an obligation of the signing parties to observe the provisions of GATT, was negotiated and signed<sup>5</sup>.

The European Communities, as a custom union, accordingly to Art XXIV of the GATT was “understood to mean the substitution of a single customs territory for two or more customs territories, (...) where duties and other restrictive regulations of commerce (...) are eliminated with respect to substantially all the trade between the constituent territories”<sup>6</sup>. The custom union was not supposed to raise tariffs or impose more restrictive barriers on the contracting parties (of the GATT) which were not parties to such union.

However, regardless the additional Agreement Between the United States and the European Economic Community Pursuant to art. XXIV/6 of the GATT of March 7, 1962<sup>7</sup>, the European Communities, extending their common market, adopted in 1962 Regulation 22<sup>8</sup>, which substantially increased charges on poultry exported by the United States to Europe. It particularly affected the export of chicken to West Germany which tripled the tariff on poultry<sup>9</sup>.

During the initial negotiations, the United States demanded the compensation equal 46 mil. dollars,<sup>10</sup> and European Community agreed only to compensate

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5 See, J. H. Jackson, *World Trade and the Law of the GATT*, Indianapolis, 1968, pp. 882–883. As the EUROPEAN OFFICE OF THE UNITED NATIONS Information Centre Press release (No. 469 Geneva 27 October 1947) stated: “The Final Act also states that the General Agreement, together with the Schedules of tariff concessions will be released by the Secretary General of the United Nations for publication on November 18, 1947, provided that the Protocol has, by November 15, been signed by all the countries named in the Protocol. The countries named in the Protocol are Australia, Belgium, Canada, France, Luxembourg, Netherlands, United Kingdom and United States.”, <http://sul-derivatives.stanford.edu/derivative?CSNID=90260240&mediaType=application/pdf> (last visited on 24.04.2020).

6 See the original GATT Article XXIV, complemented by an “Ad Art XXIV”, [https://www.wto.org/english/tratop\\_e/region\\_e/region\\_art24\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_art24_e.htm) (last visited on 24.04.2020).

7 See, A. Chayes, T. Erhlich, A. Lowenfeld, *International Legal Process*, Vol. II, 1968, pp. 215–230.

8 *Ibidem*, pp. 220–230.

9 *Ibidem*, pp. 262–287.

10 *Ibidem*, p. 298.

American damages up to 19 mil. dollars<sup>11</sup>. After submission of the dispute to the GATT Commission, established according to the GATT dispute settlement system, the organization ordered the EC to pay compensation of 26 mil. dollars. Facing the refusal of the EC, the United States raised the tariffs on European trucks from 2.5% to 25% and on European alcoholic beverages<sup>12</sup>. It resulted in an increase of Japanese exports of trucks to U.S., and the American higher tariffs on European alcoholic beverages contributed to a significant development of local wineries in California, Oregon, Virginia and in many Latin American countries. In 2002, Robert Zoellick, the U.S. Trade Representative proposed an elimination of tariffs on all industrial goods around the world. It normalized the trade in trucks, but the production of American alcoholic beverages left import of European wines and whisky much below the pre-war level.

The number of the trade related conflicts between the European Community/ Union and the United States which were submitted to the GATT/WTO Dispute Resolution System (cases launched by EU, complaints against EU and cases in which the EU was a third party) is so big that the selection of the hostile disputes in which the term “trade wars” would be most applicable and is most frequently used is necessary.<sup>13</sup>

Picking up as an example another conflict, Patrick Barkham asked the question: “What are the banana wars?” “The people of Europe – he responded- peel back more than 2.5 billion tons of bananas every year. Now, this love of bananas has turned to the war. The “banana wars” was the culmination of a six-year trade quarrel between the US and the EU. The US complained that an EU scheme giving banana producers from former colonies in the Caribbean special access to European markets broke free trade rules”<sup>14</sup>.

Explaining the roots of the conflict, the European Community countries have applied preferential duties on bananas imported from former colonial countries of Africa, Caribbean islands and Islands in the Pacific (*African, Caribbean and Pacific “ACP” countries*) since the end of World War II<sup>15</sup>. The problem provoked the reaction of the United States when the Europeans decided to harmonize its banana policy. The *European (EC/EU) Banana Regime*, issued in 1993, introduced a combination

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11 The Chicken War: A Battle Guide, “New York Times”, Jan. 10, 1964 <https://www.nytimes.com/1964/01/10/archives/the-chicken-war-a-battle-guide.html> (last visited on 26.04.2020).

12 For more comments see D. Ikenson, Ending the “Chicken War.” The Case for Abolishing the 25 Percent Truck Tariff, June 18, 2003, Center for Trade Policy Studies.

13 Full list of the WTO cases involving EU can be found on the official website of the European Union, <https://trade.ec.europa.eu/wtodispute/search.cfm?code=2> (last visited on 27.04.2020).

14 P. Barkham, European Union. The banana wars explained, “The Guardian”, 03.05.1999.

15 Banana Wars: Challenges to the European Union’s Banana Regime (Teaching Note), 1.2.2004, <http://www.ksgcase.harvard.edu/case.htm?PID=1534.2>.

of quota system and tariff system what meant that up to certain number of tones, bananas imported from ACP countries were exempted from the duty.

The European Union's Banana System has been attacked by the U.S. corporations investing in Latin America, led by *Chiquita Brands International Inc.* and *Dole Foods*. On November 4, 1996, together with Ecuador, Guatemala, Honduras and Mexico, the United States asked the World Trade Organization (WTO), which was created to oversee the global trade rules among nations, to establish the Grievance Commission. The Commission launched action May 8, 1996<sup>16</sup> and after the conclusion of the appellate and arbitration procedure the Commission authorized the United State to impose penalties up to 191.4 mil. USD<sup>17</sup>. The WTO formally accepted the arbitrators report in May 1999.

Almost simultaneously with the development of the banana war, the United States started another one, called "Beef Hormone Trade War". The beef hormone dispute has affected transatlantic trade relations since 1988 when the Europeans, concerned for the health of their citizens, banned imports of beef treated with certain growth-promoting hormones. The States requested consultation and the establishment of a WTO Commission which would consider the legality of the European Community directive. The Commission confirmed that the Directive is incompatible with WTO sanitary regulations<sup>18</sup>. The EC lodged an appeal and the Body of Appeal largely upheld the Commission's findings. The arbitrator set a deadline of 15 months (until May 1999) for the proposed amendments to Community regulation and practice. One month before the deadline, the EC confirmed that it would not be able to execute WTO orders in time. The United States requested a mandate to impose sanctions of up to \$202 million. The arbitrators acknowledged that the United States could impose penalties of no more than \$116.8 million<sup>19</sup>.

For several years the United States and Canada suggested that these states would suspend the imposition of the additional duties if the European Union would in return increase its quota for imports of high-quality beef from the US and Canada.

Disappointed by the lack of concrete results, the US Congress decided to put indirect pressure on the European Commission through European exporters themselves. On September 22, 1999, Senator *Mike DeWine*, supported by nine other senators, submitted a draft law on the Carousel Procedure (*Carousel Retaliation Act of*

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16 *Ibidem*.

17 L. Sek, Trade Retaliation: The 'Carousel' Approach, Congressional Research Service, 03.05.2002 (order Code RS20715), p. 2.

18 WTO Agreement on Sanitary and Phytosanitary Measures: Issues for Developing Countries by Simonetta Zarrilli Division on International Trade in Goods and Services, and Commodities UNCTAD Secretariat. [http://www.ceintelligence.com/files/documents/WTO\\_Agreement\\_On\\_Sanitary\\_and\\_PhytosanitaryMeasures.pdf](http://www.ceintelligence.com/files/documents/WTO_Agreement_On_Sanitary_and_PhytosanitaryMeasures.pdf), (last visited on 09.05.2020).

19 See Chronology: U.S. Disputes with EU Over Bananas, Beef Hormones, 07.05.2000, [http:// www.usembassy.it/file2000\\_07/alia/a0070523.htm](http://www.usembassy.it/file2000_07/alia/a0070523.htm) (last visited on 05.05.2020).

1999) to Congress which passed the law after it bounced back and forth between the chambers<sup>20</sup>. The President signed it on May 18, 2000. The law meant penalizing more European producers and exporters and greater centrifugal pressure on EC decision-making bodies. In accordance with this law the U.S. was able to revise periodically the list of the EU companies targeted by the U.S. sanctions.

Indeed, when in the summer of 2000, the banana and beef related conflicts continued, and chances for a constructive dialogue were clearly weak, the United States began to apply sanctions. The US increased tariffs were mainly targeted against EU countries that supported the use of the Banana System, with France and England at the forefront<sup>21</sup>. Almost in parallel with the start of sanctions, the European Union, supported by 10 other WTO countries, requested consultations and shortly thereafter the establishment of a Commission to examine the compliance of the carousel procedure with WTO rules. Indeed, the Commission confirmed the validity of the Union's action<sup>22</sup>. While the U.S. appeal awaited a resolution, the two sides reached a partial agreement in April 2001. The Union has undertaken to suspend further claims on foreign sales corporation tax credits,<sup>23</sup> and the United States has suspended the application of repressive duties on bananas since July 1, 2001. The duties on hormone-produced beef have remained in force.

Searching for the EC v US disputes from the end of the twentieth century, which for some time have been suspended and waited for the final decision of the WTO, the reader has to remember other conflicts between these two parties triggered by the Clinton's administration's adoption of the 1996 "Cuban Liberty and Democratic

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20 See The Trade and Development Act of 2000. [https://www.law.cornell.edu/topn/trade\\_and\\_development\\_act\\_of\\_2000](https://www.law.cornell.edu/topn/trade_and_development_act_of_2000) (last visited on 10.05.2020).

21 For example, the duty on bath seating imported into the United States, mainly from France and England, increased from 4.9% to 100%, resulting in an 83% reduction in imports from England and 45% from France.

22 Suspended in the commercial space of legal disagreements, the issue of legalizing the procedures of the American "intervention carousel" returned to the agenda in 2009, when in January, president Bush's outgoing administration decided to leave the use of "carousel" again at the disposal of the new president. The European Union immediately responded by announcing a renewed complaint to the WTO. For more comments see L. Sek, Trade Retaliation, *op. cit.*, p. 316.

23 In the article on *Foreign Sales Corporation (FSC)*, (updated May 31, 2019) W. Kenton explains that "A foreign sales corporation (FSC) is a defunct provision in the U.S. federal income tax code which allowed for a reduction in taxes on income derived from sales of exported goods. The code required the use of a subsidiary entity in a foreign country which existed for the purposes of selling the exported goods. (...) The FSC, established in 1984, was one in a series of measures designed to support U.S. exporters. It followed on from domestic international sales corporations (DISCS) and was succeeded by the Extraterritorial Income Exclusion Act (ETI) in 2000. All of these were successively challenged in – and found non-compliant by – the General Agreement on Tariffs and Trade (GATT) and its successor the World Trade Organization (WTO) as constituting prohibited export subsidies." Investopedia, <https://www.investopedia.com/terms/f/foreign-sales-corporation.asp> (last visited on 10.05.2020).

Solidarity (Libertad) Act”, popularly known as Helms-Burton Act. The Act extended embargo imposed on Cuba by the United States, which was supposed to force the Cuban administration to speed up the democratization of the Cuban political system.

The departure of the American companies, whose property was expropriated by the Cuban government, encouraged European corporations to invest (trafficking) in Cuba and the Helms -Burton Act, signed by President Clinton on March 12, 1996 penalized foreign companies allegedly “trafficking” in property formerly owned by U.S. citizens but confiscated by Cuba after the Cuban revolution. The act allowed the administration to sue these companies in the U.S. courts.

In response, the European Union adopted the Council Regulation (No 2271/96)<sup>24</sup> declaring the extraterritorial provisions of the Helms–Burton Act to be unenforceable within the EU and permitting recovery of any damages imposed under it on the European territory. After several rounds of partial waivers of the Act, the dispute survived until the presidency of Donald Trump and the U.S. administration threatened that it will consider the return to the Helms-Burton policy<sup>25</sup>.

As we have already noted in the beginning of this section, the size and number of trade disputes involving the EC/EU and the U.S. would shock even the reader with some expertise in the area of international trade. Calling the attention of the researchers to this fact, Dan Ikenson, Director of the Center for Trade Policy Studies at the Cato Institute, in the article “Byrdening’ Relations: U.S. Trade Policies” wrote:

“Since 1995 the United States has been involved (as complainant or defendant) in 155 of the 304 total disputes (51 percent). In 2003 the number of disputes in which the United States was a defendant surpassed the number of disputes in which it was a complainant for the first time. In the first four years of the WTO, the United States was a complainant 51 times and a defendant 27 times. During the most recent four years, the United States was a complainant 15 times and a defendant 42 times<sup>26</sup>.

The United States has been playing defense with regularity in recent years, not because of an anti-American bias in the WTO, but because of its own overzealous application of trade restraints and serious flaws in its trade remedy laws<sup>27</sup>.

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24 «EUR-Lex – 31996R2271 – EN». Official Journal L 309, 29/11/1996 P. 0001 – 0006.

25 The reader looking for similar cases, which were sort of “suspended” and “reopened” several times should study the case of the European attack on The U.S. Antidumping Act of 1916 and the dispute, Boeing v Airbus, see: R. Ludwikowski, *Handel Międzynarodowy*, *op.cit.*, pp. 246–248; also: editorial team, Boeing vs Airbus – Which is Better & Who is Winning, <https://www.aircraftcompare.com/blog/boeing-vs-airbus/> (last time visited on 17.05.2020).

26 Compiled from statistics on the WTO website, [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm). (last time visited on 14.05.2020).

27 D. Ikenson, *Byrdening’ Relations: U.S. Trade Policies* (Washington, D.C.: Cato Institute, 2003). *Continue to Flout the Rules*,” *Cato Free Trade Bulletin* no. 5, 2., January, 13, 2004 <https://www.cato.org/free-trade/bulletin>.



Writing about “Byrdening relations”, Ikenson referred to another dispute in which EU questioned so-called “Byrd Amendment”<sup>28</sup>. The Act provided that the US government will distribute funds collected from anti-dumping duties and protective duties neutralizing subsidies between companies that have been affected by *unfair* trade practices. Commenting on the effect of the Amendment, Ikenson reported that “in 2001, the first year of the amendment, 155 different corporations filed 894 complaints with the administration, for damages totaling \$1.2 trillion. The administration found 61% of complaints (541) justified, meaning an average of 427,000 complaints were allocated some USD per applicant. In 2002, \$330 million was distributed, averaging \$451,000 per applicant”<sup>29</sup>.

Almost simultaneously with the dispute over Byrd Amendment, the United States lost in the WTO the case of so-called “zeroing”. The practice was used in antidumping cases when the investigating authority calculating the dumping margin by getting the average of the differences between the export prices (prices in the importing country) and the home market prices (prices in the country of production) of the product in question used a misleading strategy called *zeroing*. It consists in not taking into account the negative dumping margin and introducing the figure ‘0’ instead of the average margin. This strategy obviously violated the WTO rules of fair trade<sup>30</sup>.

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cato.org/publications/free-trade-bulletin/byrdening-relations-us-trade-policies-continue-flout-rules (last visited on 14.05.2020).

28 Amendment introduced by Senator Robert C. Byrd, also known as the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) Enacted by: the 106th United States Congress and signed into law by President Clinton on October 28, 2000. For the history of the legislative process for the Act see: U.S. Continued Dumping and Subsidy Offset Act, Statement of the U.S. at the Oral Hearing, 05.06.2003, <http://congressionalresearch.com/RL33045/document.php> (last time visited on 14.05.2020).

29 See slightly different data: J. Seale Jr, WTO Appellate Body Condemns the ‘Byrd Amendment’. The US Must Now Repeal It, Delegation of the European Commission to the United States, Countervailing Duties, Antidumping Tariffs and the Byrd Amendment – a Welfare Analysis, [https://www.researchgate.net/publication/23505405\\_COUNTERVAILING\\_DUTIES\\_ANTIDUMPING\\_TARIFFS\\_AND\\_THE\\_BYRD\\_AMENDMENT\\_A\\_WELFARE\\_ANALYSIS](https://www.researchgate.net/publication/23505405_COUNTERVAILING_DUTIES_ANTIDUMPING_TARIFFS_AND_THE_BYRD_AMENDMENT_A_WELFARE_ANALYSIS) (last time visited 05.14.2020).

30 In other words, explaining this problem, we have to ask what happens if sales in the producer’s own market take place at different prices, but they are not lower than the cost of production. It means that the sales at a ‘lower than normal price’ are not used long enough or it is possible to compensate for the losses incurred. The practice of the so-called *zeroing* was to provide answers. It consists in not taking into account the negative (or average) dumping margin and introducing the figure ‘0’ instead of the actual “negative figure”. For more detailed explanation of this practice see the textbook of the author, *supra* note 2, p. 251–255.

## 2. World Trade Organization and prospects of multilateral trade

It was expected that the Uruguay Round (1986–1992)<sup>31</sup> of trade negotiations would open a new opportunity for the stabilization and standardization of the rules of fair trade. In fact; however, only in the minutes ending the meeting of the negotiating parties in December 1990, was the WTO (World Trade Organization) mentioned. Canada came forward again with the idea of reconsidering the possibility of establishing an International Trade Organization. In 1991, the European Union took up this thought but suggested that the organization be renamed to the *Multilateral Trade Organization* (MTO). In December 1991, GATT Director-General A. Dunkel initiated further discussions on a draft of the new organization, which, after many objections from the US, was submitted for discussion in December 1993, essentially in the final hours of the negotiations preceding the approval of the Final Protocol of the Uruguay. The project for the creation of the organization was accepted in general outlines, but it was signed only on 15 April 1994 at the conference in Marrakech, Morocco. The new organization was named the World Trade Organization.

The hopes that the new organization would help the superpowers to resolve all trade related problems were, however, very illusive. In the first decade of the twenty-first century opponents of the new agreement in the United States stressed that their country would lose the right to reject the decision of the GATT settlement committee; other critics of the new package added that during the 46 years of the organization's existence, the United States used the services of the GATT Commission 33 times and without impressive success for the country.

On the one hand, the Central European countries, including Poland<sup>32</sup>, were concerned that US environmental policy might be imposed on other parties; on the other hand, (looking especially on the US-China relations) the American protection of intellectual property was highly unsatisfactory.

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31 The history of the Uruguay negotiations was most fully illustrated in the three-volume work prepared under ed. T.P. Stewart, *Uruguayan GATT Round: History of Negotiations (1986–1992)*, Brussels 1992. The reader should reach for this book in order to more fully analyse the course and main stages of the negotiations. At this point, it is enough to mention that the Final Act round has 550 pages, and a full package of materials over 22,000 pages and weighs about 200 kilograms. Let us therefore try to limit our comments to presenting the most important stages of the Uruguay negotiations.

32 See editorial article "Morawiecki popiera „mocniejszą” wersję umowy o wolnym handlu z USA. Co to oznacza dla polskiej gospodarki?", 02.03.2016 (last actualization 22.02.2018), "Newsweek". We can read: "However, TTIP also has a number of critics who point out the agreement e.g., strengthening the role of corporations, which, in simple terms, will be able to influence national legislation. It is also controversial to equate food regulations. Europe is at risk of a flood of cheap artificial food from the US", <https://www.newsweek.pl/biznes/polska-popiera-umowe-o-wolnym-handlu-pomiedzy-ue-i-usa-czym-jest-ttip/q10ep8p> (last visited on 25.05.2020).

During the successive rounds of negotiations, the Doha Round in Qatar and the WTO Ministerial Conference at Cancun, Mexico<sup>33</sup>, representatives of the LDC (Less Developed Countries) demanded full implementation of the Uruguay Round. LDC countries required financial and technical assistance which would allow for an even increase in the efficiency of agricultural production worldwide. It was demanded that the WTO Committee on Agriculture introduce a specific plan (so-called The Development Box) to the WTO indicating measures to ensure that the agricultural reform was essential to make progress on other issues. However, ministers of the developed countries disagreed on how each nation would cut agricultural tariffs and subsidies. In contrast, the LDC countries rejected the proposed U.S. and European Union reductions in subsidies as inadequate, and finally the U.S. and EU felt that the key developing nations were not contributing to reform by agreeing to open their markets. It decided on the failure of Cancun negotiations.

The intellectual ferment around globalization along with enthusiasm and the efforts to define the term itself have also brought a lot of concern and frustration. The search for the sources of globalization has continuously led to the exposure of a number of initiatives sponsored, targeted or largely penetrated by Americans. America's participation in the formation of the post-war political, legal or world trade organization was unquestionable but still insufficient to allow the industries in the LDC states to adequately develop<sup>34</sup>.

The proponents of globalization, although admitting the U.S. endeavors to develop trade, often stressed that the phenomenon of so-called "American unilateralism"<sup>35</sup> contributed to the crisis of the global economy<sup>36</sup>. Complaints about Americans' propensity to consider their value list as a globally acceptable have grown at the turn of the twentieth into the twenty-first century, and many economists were inclined to adhere to John Gray who in the article "Goodbye to globalization" wrote in 2011:

"George Bush and Tony Blair sent out a reassuring message from Camp David. Their schmoozing and backslapping were designed to tell the world that

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33 See R.E. Baldwin, Failure of the WTO Ministerial Conference at Cancun: Reasons and Remedies, <http://fordschool.umich.edu/rsie/Conferences/CGP/May2004Papers/Baldwin.pdf> (last visited on 25.05.2020).

34 See, DOHA WTO MINISTERIAL 2001: MINISTERIAL DECLARATION, WT/MIN(01)/DEC/1, 20 November 2001, [https://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm) (last time visited on 25.05.2020).

35 Phenomenon of the "American unilateralism", was defined as attempts to impose a one-way American vision of the world on other countries. For more information see, M. Penn Unilateralism: Definition & International Relations, Study.com, <https://study.com/academy/lesson/unilateralism-definition-international-relations.html> (last time visited 03.06.2020).

36 Quotation after: Global Economy Part 5: The Proponents of Globalization, <https://learn.uncg.edu/courses/learn/global/unit1/unit-1-part-5/> (last visited 03.06.2020).

nothing much has changed since Mr. Bush entered the White House. In fact, there has been a momentous shift in America's stance towards the world. As a political project globalization is dead"<sup>37</sup>.

### 3. Can “strategic trade” reset transatlantic relations?

Regardless of these pessimistic opinions, in the beginning of his second term in 2013, President Obama stressed that the chances for the restoration of global or multilateral trade are strong. In 2013 in the State of the Union Address the President announced that The Transatlantic Trade and Investment Partnership (TTIP) negotiations were advancing, and this may mean a new era of EU-US relations<sup>38</sup>.

Entering, on January 20, 2017, the world of political and trade transformations Donald Trump, the 45<sup>th</sup> president of the United States, with great fanfare announced that his priorities are different than his predecessors. With his economic education and background as financial mogul gaining reputation in the area of real estate and as a TV personality, Trump had to prove that his vision of politics and trade is “new”. Giving just several examples, his priority was to enhance domestic not international trade. Building on this assumption he and his administration began to develop the concept of strategic trade, concentrated on the slogan “America first”.

Summarizing this doctrine Trump stated the fair trade is now to be called Fool Trade if it “is not reciprocal”<sup>39</sup>. Following the criticism of globalization by the authors of the doctrine of strategic trade, the president claimed that recently the regulations of the GATT and WTO bring more damage than profit<sup>40</sup>. In his opinion, the multilateral treaties should be replaced by bilateral agreements.

Accordingly, with this assumption his first step after the election was the withdrawal of the United States from the *Trans-Pacific Partnership Agreement* – *TPP*. The deal negotiated by President Obama's administration was intended to develop commercial cooperation between 12 American and Asian countries. The Agreement had a potential to duplicate the structures of the European Union and, in any event, balance China's growing influence in the Pacific region. The remaining 11 countries (outside the United States) signed an agreement on March 8, 2018 to form

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37 J. Gray, Goodbye to Globalization, “The Guardian”, 26 Feb 2001, (last visited 25.05.2020).

38 See, S. Lester, One Year into TTIP Negotiations: Getting to Yes, CATO Institute, Free Trade Bulletin, Nr 59, Sept 21, 2014, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2549394](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2549394) (last visited on 25.05.2020).

39 Quoted in: A. Hopkins and D. Ljunggren, U.S.-Canada dispute escalates after tense G7; Trump renews criticism of Trudeau, Reuters, June 10, 2018, <https://ca.news.yahoo.com/u-canada-dispute-escalates-tense-g7-trump-renews-020258874--business.html> (last visited on 26.05.2020).

40 D. Denoon, The New international economic order: a U.S. response, 1979, pp. 78–108.

*The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)*, also known as *TPP11 and TPP-11*<sup>41</sup>.

The trade relations with the European Union also became more complicated. Another trade maneuver by Trump was to increase customs duties on imported steel and aluminum goods. After the sanctions were announced, the Trump administration rather unexpectedly excluded Mexico, Canada and European Union countries from the group of states exposed to the sanctions.

It seemed that the United States would repeat G.W. Bush's 2002 mistake when Canada (as the member of NAFTA) was excluded from safeguards imposed by the United States. The World Trade Organization's dispute resolution bodies recognized it as a violation of so-called "principle of parallelism" that did not allow using different standards with regard of regular member states of the WTO and those which signed with the state using trade sanctions the special regional agreements<sup>42</sup>.

On May 31, 2018, however, Trump made the next move on the world's commercial chessboard and revoked the special privileges of the United States, excluding Canada, Mexico and European Union countries from customs penalties that have docked exporters of aluminum and steel products. Trade experts have begun to question whether Trump's "trade policy" is evolving or whether the president is chaotically changing his policy.

Many trade experts in Europe have been again horrified by the shift in attitudes in Washington. The possibility that Trump's policy will keep being volatile could have a significant effect on the U.S. economy and for the NATO alliance and these developments should not pass unnoticed by American readers.

US-China relations provided another example. In 2019, Trump changed his strategy again. After a decades-long exchange of threats to impose sanctions and sudden returns in the policies of both countries, on January 15, 2019, the United States and China signed the "First Cycle" ("Phase One") trade agreement, which was considered a significant success for Trump's policy. The positive evaluation of the US - China relations was hampered by the COVID-19 pandemic, which reduced the size of trade between those countries<sup>43</sup>. COVID-19, concluded Shi Yinhong, an

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41 For more comments on Trump's policy with Asian and South American states see, R. Ludwikowski, *Strategie handlowe Donalda Trumpa. Kilka refleksji nad procesem transformacji NAFTA w USMCA*, (Donald Trump's Trade Strategies. A Few Reflections on the Process of Transformation of NAFTA in the USMCA, "Krakowskie Studia Międzynarodowe", Nr 4, 2019, pp 213–224.

42 J. Worland, *Trump Wants to Impose Steel Tariffs. It Didn't Work for Bush*, Time, updated: March 1, 2018. Originally published: March 1, 2018, <https://time.com/5180901/donald-trump-steel-aluminum-tariff/> (last visited 26.05.2020).

43 See Vineyard, *How Does the Coronavirus Impact International Trade with China?*, "Universal Cargo", 30.01.2020, <https://www.universalcargo.com/how-does-the-coronavirus-impact-international-trade-with-china/> (last visited 16.02.2020).

adviser to the Chinese government, pushes US-China relations to their lowest point in decades<sup>44</sup>.

With regard to the NAFTA agreement (“disastrous”, accordingly to Trump’s pompous statements) he signed with Canada and Mexico a “phenomenal” pact the USMCA – the United States, Mexico, Canada Agreement<sup>45</sup>.

These examples can be multiplied, but let’s conclude these remarks only with a couple of comments on the prospects of US and EU cooperation.

## Conclusions

On the basis of the analysis presented above, the author has to admit that, at this moment, the prognosis for the stabilization of the EU-US trade relations is extremely unpredictable. American unilateralism, reluctance to cooperate with international organizations, such as the United Nations, lack of confidence in the effectiveness of the World Trade Organizations, aggressive attitude toward World Health Organization, the long list of trade conflicts with European Community/ Union presented above, combined with Trump’s inclination to take one step ahead and two steps back and his openly presented nationalistic attitude may threaten the trend toward world-wide solidarity developed by the struggle with COVID-19.

In the following conclusions let’s make some comments on the future of the Transatlantic Trade and Investment Partnership between the U.S and EU. For the cooperation of these two regions this Pact is a crucial arrangement. However, we have to admit that in this article, we focused more on the conflicts than on the successful negotiations between the US and EU. Our main point in the comments presented above was that the relationship between the European Union and the United States has always been complicated, and we analyzed above the main reasons for these disagreements.

In the time of renewed transatlantic negotiation, pro-American sentiments in Europe were stronger, and European experts on trade and politics emphasized that US significantly increased support for the European Deterrence Initiative (EDI). Still with comments frequently repeated by Trump that “Europe needs its own army”, the

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44 See the conclusions of Shi Yinong, an adviser to the Chinese government, China’s diplomatic challenges in a world polarized by the pandemic, “Global Times”, 5.10.2020, <https://www.globaltimes.cn/content/1187918.shtml>; see also: COVID-19 pushes US-China relations to lowest point in decades, <https://www.msn.com/en-us/news/world/covid-19-pushes-us-china-relations-to-lowest-point-in-decades/ar-BB13S1Ah> (last time visited on 27.05.2020).

45 USMCA goes into effect on July 1, 2020; for more comments see, J. Greenberg, Was NAFTA worst trade deal ever? Few agree, “Politifact”, 29.08.2016, <https://www.politifact.coarticle/2016/sep/29/NAFTA-worst-trade-deal-ever-few-agree>: For more comments, see, L, McGee, Cracks in the Trump-Europe relationship are turning into a chasm, 6, 4, 2020, CNN <https://www.cnn.com/2020/07/04/europe/trump-europe-relationship-intl/index.html> (last visited 27.05.2020).

European media began to warn the readers that the crisis in US and EU relations may soon return<sup>46</sup>.

Let's mention some other obstacles which can delay the signing of the US-EU Treaty. We have to admit that Brexit additionally complicated the relationship between EU and US, and by the time this article was completed, it was not clear whether US will sign the free trade agreement with UK before the negotiations with EU will be concluded<sup>47</sup>.

We have to add that deterioration of the US trade relations with China in the second part of Trump's presidency disoriented Europeans. In the early stage of pandemic in China, the European states offered a significant assistance to Beijing. When, however, Covid-19 also hit the countries of EU, China did not express readiness to do a lot on behalf of this region.

All these observations have led us to the final conclusion that President Trump's doctrine of strategic trade may result rather in the US return to a traditional policy of isolationism than a fruitful commercial cooperation.

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46 See J. Smith, The EU-US relationship is in crisis, The German Times, 03.2019, <http://www.german-times.com/the-eu-us-relationship-is-in-crisis/> (last visited 24.09.2020).

47 S. Lester and D. Ikenson, Core Principles for a U.S.-UK Free Trade Agreement, Cato Institute, 01.30.2020, <https://www.cato.org/blog/core-principles-us-uk-free-trade-agreement>, see J. Larik, *Brexit and the Future of Transatlantic Relations*, Brexit Institute, 04. 2018, <http://dcubrexitinstitute.eu/2018/04/brexit-and-the-future-of-transatlantic-relations/> (last visited 24.09.2020).

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