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DOCTORAL THESIS
Doctor of Philosophy (PhD)

THE ROLE OF EU INSTITUTIONS IN COMMON TRADE POLICY: AN ASSESSMENT ON EU-CANADA COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

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DECLARATION

I hereby declare that this doctoral thesis titled as “The Role of EU Institutions in Common Trade Policy: An Assessment on EU-Canada Comprehensive Economic and Trade Agreement” has been written by myself in accordance with the academic rules and ethical conduct. I also declare that all materials benefited in this thesis consist of the mentioned resources in the reference list. I verify all these with my honour.

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ABSTRACT

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This dissertation examines the roles of the European Commission, Council of the European Union and European Parliament in common trade policy. By combining principal-agent approach with political economy, it aims to answer two main questions: Is Commission's autonomy restricted by any of other two European Union (EU) institutions in negotiation, signature and ratification process of a new generation trade agreement between the EU and a third country? Do the priorities of three institutions regarding trade policy diverge from each other? In this respect, to be able to analyze the institutions' positions and their impact on a policy outcome, EU-Canada Comprehensive Economic and Trade Agreement (CETA) is examined.

First, the study uses data gathered from international, European and national media as well as the official documents of the EU, Canada and member states to present conflictual dynamics of inter-institutional relations in the field of EU trade. Second, it employs content analysis to analyze official documents published by Commission, Council and Parliament regarding CETA and also the main text of agreement. Negotiation subjects are categorized as values and economic interests.

The findings reveal that both Council/member states and Parliament managed to limit Commission's autonomy and to affect the final agreement. It was also found that, independent from political-economic orientation, each

institution was successful in reflecting its own priorities on CETA. Moreover, institutions' priorities do not diverge significantly from each other. Thus, Commission, Council and Parliament play complementary roles by supporting EU's neoliberal economic orientation in implementation of its inter-regional trade policy.

Keywords: European Union, CETA, Principal-agent Approach, Political Economy, EU Trade Policy, EU Institutions.

ÖZET

Doktora Tezi

Ortak Ticaret Politikasında AB Kurumlarının Rolü: AB-Kanada Kapsamlı Ekonomi ve Ticaret Anlaşması Üzerine Bir Değerlendirme

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Bu tez çalışması, Avrupa Komisyonu, Avrupa Birliği Konseyi ve Avrupa Parlamentosu'nun ortak ticaret politikasındaki rollerini incelemektedir. Çalışma, asil-vekil yaklaşımını politik ekonomi ile birleştirerek iki temel soruyu cevaplamayı amaçlamaktadır: Avrupa Birliği (AB) ile üçüncü bir ülke arasındaki yeni nesil bir ticaret anlaşmasının müzakere, imza ve onaylanma sürecinde, Komisyonun özerkliği diğer iki AB kurumunun herhangi birisi tarafından kısıtlanmakta mıdır? Üç kurumun ticaret politikasına ilişkin öncelikleri birbirinden farklılaşmakta mıdır? Bu bağlamda, kurumların pozisyonlarını ve bir politika çıktısı üzerindeki etkilerini analiz edebilmek amacıyla, AB-Kanada Kapsamlı Ekonomi ve Ticaret Anlaşması (CETA) incelenmektedir.

Çalışma, ilk olarak, AB ticareti kapsamında kurumlar arası ilişkilerin çatışmalı dinamiklerini ortaya koymak amacıyla, uluslararası, ulusal medya ve Avrupa medyasının yanı sıra AB, Kanada ve üye devletlerin resmi belgelerinden derlenen bilgilerden yararlanmaktadır. Ayrıca, Komisyon, Konsey ve Parlamento tarafından CETA ile ilgili olarak yayımlanan resmi belgeleri ve anlaşmanın ana metnini içerik analizi yöntemi ile analiz etmektedir. Müzakere konuları, değerler ve ekonomik çıkarlar olarak kategorize edilmiştir.

Bulgular, hem Konseyin/üye devletlerin hem de Parlamentonun Komisyonun özerkliğini sınırlamayı ve nihai anlaşmayı etkilemeyi başardığını göstermektedir. Bununla birlikte, politik-ekonomik yönelimden bağımsız

olarak, her bir kurumun, kendi önceliklerini CETA'ya yansıtmada başarılı olduğu saptanmıştır. Ek olarak, kurumların öncelikleri birbirinden önemli ölçüde farklılaşmamaktadır. Böylece, Komisyon, Konsey ve Parlamento, AB'nin bölgelerarası ticaret politikasının uygulanmasında, Birliğin neoliberal ekonomik yönelimini destekleyerek birbirini tamamlayıcı roller oynamaktadır.

Anahtar Kelimeler: Avrupa Birliği, CETA, Asil-vekil Yaklaşımı, Politik Ekonomi, AB Ticaret Politikası, AB Kurumları.

THE ROLE OF EU INSTITUTIONS IN COMMON TRADE POLICY: AN ASSESSMENT ON EU-CANADA COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

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ABREVIATIONS

ACP	African, Caribbean and Pacific
ACTA	Anti-Counterfeiting Trade Agreement
ALDE	Alliance of Liberals and Democrats for Europe
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Meeting
BusinessEurope	Confederation of European Business
CAP	Common Agricultural Policy
CETA	Comprehensive Economic and Trade Agreement
CJEU	Court of Justice of the European Union
COREPER	Committee of Permanent Representatives
DCFTAs	Deep and Comprehensive Free Trade Areas
DG Trade	Directorate-General for Trade
EC	European Community
ECI	European Citizens Initiative
ECR	European Conservatives and Reformists Party
EEC	European Economic Community
EFDD	Europe of Freedom and Direct Democracy
EFTA	European Free Trade Agreement
ENF	Europe of Nations and Freedom
EPP	European People's Party
ERT	European Roundtable of Industrialists
EU	European Union
EUROCHAMBRES	Association of European Chambers of Commerce and Industry
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
Greens/EFA	Greens/European Free Alliance
GUE/NL	European United Left/Nordic Green Left

H	high
IBSA	India, Brazil and South Africa
ICS	Investment Court System
INTA	The Committee of International Trade
ISDS	Investor - State Dispute Settlement
ITO	International Trade Organization
L	low
MEPs	Members of the European Parliament
MFN	Most Favored Nation
MH	moderately high
ML	moderately low
NGOs	Non-governmental Organizations
NI	Non-Inscrits
No	Number
p	page
pp	pages
RTAs	Regional Trade Agreements
SMEs	Small and Medium-sized Enterprises
SPA	Strategic Partnership Agreement
S&D	Progressive Alliance of Socialists and Democrats
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TIEA	Canada-EU Trade and Investment Enhancement Agreement
TISA	Trade in Services Agreement
TPC	Trade Policy Committee
TTIP	Transatlantic Trade and Investment Partnership
US	United States
Vol	Volume
WTO	World Trade Organization

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INTRODUCTION

Trade is one of the oldest and most integrated policy areas of the EU. Formation of a common trade policy was one of the main objectives of Treaty of Rome signed by Belgium, France, Italy, Luxembourg, the Netherlands and West Germany in 1957. The treaty founded the European Economic Community (EEC) that aimed to facilitate and enhance trade among the founding members and to increase their bargaining power against the rest of the world. Since the six states were also parties to the General Agreement on Tariffs and Trade (GATT), any attempt to remove tariffs among themselves had to meet the requirements of the GATT. Thus, the Treaty of Rome was envisaging a time table for elimination of customs duties and quantitative restrictions on trade between member states that eventually would lead to the establishment of a common customs tariff and an external trade policy. To manage the common commercial policy, the Commission was authorized by the member states.

Following the establishment, the Community gradually developed a network of commercial relations worldwide. Its position in bilateral trade relations with third countries and in multilateral negotiations through GATT was strengthened with the accession of new members and consolidation of the common market. At the beginning, the Community's external commercial policy mainly covered trade in industrial goods and dealt with "at the border" commercial issues such as reduction of customs duties. Beginning with 1980s, new patterns in international economy and trade started to emerge. Advancement of information and communication technologies and emergence of new competitors in the global trade amended the nature of trade. Services became one of the main sources of employment and a significant proportion of international trade. Linking trade policy to protection of intellectual property rights became another priority on the world trade agenda. In order to address such new issues, World Trade Organization (WTO) was established by replacing GATT. With the aim of keeping its leading position in international trade, the EU also responded to these developments by extending its common commercial policy to include new fields.

The addition of new “behind the border” issues to European trade agenda required some structural adjustments in the EU decision making, as well. The most remarking step was improvement of the role of the European Parliament in trade policy making. With the entry into force of the Treaty of Lisbon in 2009, the Parliament became a co-legislator together with the Council of the European Union in the field of trade. Although trade policy is an exclusive competence of the EU meaning that it is the EU not the member states that legislates on trade and signs international trade agreements, distribution of competences continues to be a contentious issue in the field of trade as trade policy becomes more comprehensive and politicized. In the current institutional setting, the Commission, authorized by the Council, is responsible for conducting trade negotiations with other parties. If an agreement is signed between the EU and a trading partner, it enters into force in the EU following the approval of both the Council and the Parliament. However, if an agreement covers policy areas of competences shared between the EU and member states according to the EU law, it enters into force only if all of the member states also approve the agreement according to their national ratification procedures.

As the given framework indicates, internal and external developments transformed EU trade over time into a more comprehensive policy with a more complex decision making structure. In this context, this dissertation aims to examine the roles played by the three main institutions of the EU, i.e., the European Commission, Council of the European Union and European Parliament, in EU trade policy. To be able to analyze the impact of each institution on a concrete policy outcome, CETA is chosen to be examined. It is the first comprehensive free trade agreement of the EU signed with a developed country and is classified as a deep and comprehensive agreement with provisions for issues including but not limited to services, investment and public procurement that go beyond the aim of removal of conventional trade barriers. That makes it a politicized, contentious and at the same time convenient case for analyzing the dynamics of relations among EU institutions in trade policy. As the basis of these inter-institutional dynamics constitutes a matter of delegation and control of power, a principal-agent approach is chosen for this research. Whereas there is a wide range of studies applying principal-agent approach to EU trade policy, scholars have paid limited attention to the distribution of preferences among institutions from a political economic perspective. This study combines principal-agent approach with political economy for a more detailed analysis of each institution's effect on the final agreement.

Since CETA covers "behind the border" trade issues that are closely linked to regulatory policies of states and fundamental freedoms of citizens, negotiations of CETA resulted in intensive debates both in the European public and among the EU institutions. This dissertation elaborates the disagreements emerged between the Commission and Parliament as well as the Commission and several member states within the CETA process. It examines each relevant actor's position in these debates specifically and specifies the most controversial cases. In this respect, international, European and state agency news as well as official EU and state documents are used as the main guiding resources. Moreover, to be able to further examine the impact of each EU institution on CETA separately, content analysis is applied as a research methodology. Thus, the official documents of the Commission, Council and Parliament regarding CETA as well as the main text of the agreement are coded. For coding process, the negotiation subjects are classified under two categories named as values and economic interests. As for the main reference for this categorization, EU's contemporary trade strategy document, Trade for All, adopted by the Commission in 2015 is used.

As specified above, the main objective of this dissertation is to determine the effect of three main institutions of the EU on negotiation, signature and ratification of a free trade agreement between the EU and a third country. Although the European Commission possess the executive power, given the multi-level and complex nature of policy making in the EU, could the Council of the EU and/or the European Parliament limit the Commission's autonomy? Do the priorities of the three institutions diverge from each other with regards to CETA? If so, which institution's preferences become prominent on the signed agreement? In light of these research questions and specified methodology, this dissertation consists of four chapters. The first chapter presents a conceptual and theoretical framework to EU trade policy. For a broad understanding of the main concepts and related literature, first, historical evolution of common commercial policy is given. This is also fundamental to grasp the roots of current competence debates in the EU in the field of trade. Then, the main actors in trade policy making are introduced and their roles are explained. That is followed by explanation of theoretical aspects of EU trade policy which serves as a basis for specifying the place of this study in the relevant literature.

The second chapter explains the path towards signing of CETA and the place of the agreement in world trade. It provides a comprehensive framework for developments in governance of international trade relations from the establishment of GATT onwards. In this context, the waves of regionalism and inter-regionalism both at the global and EU levels are elaborated. Afterwards, old and current debates on multilateralism, regionalism and deep Regional Trade Agreements (RTAs) are explained. Lastly, the chapter presents the EU's position within the given framework.

In order to present the conflictual dynamics of inter-institutional relations, the third chapter elaborates the debates emerged within the EU regarding CETA. It first introduces CETA and gives information on the background and current status of the negotiations. It then explains the positions of the Parliament and several member states regarding CETA, the most controversial issues and public reactions to the agreement.

The fourth chapter consists of the analysis of the official documents published by the Commission, Council and Parliament regarding CETA as well as the CETA's main text. It begins with presenting research objectives and gives brief information on research methodology. It then presents the results of the analysis which is followed by discussion of the findings for each institution separately. Finally in the conclusion part, all of the findings are evaluated in a broader framework. The dissertation concludes with the main contributions of the study to the relevant literature and implications of the findings for future research.

CHAPTER ONE

EUROPEAN UNION TRADE POLICY:

HISTORICAL EVOLUTION, POLICY MAKING AND THEORETICAL ASPECTS

As this dissertation explores the role of the EU institutions in common commercial policy, this chapter provides a general framework to introduce the main historical developments that led to the evolution of common commercial policy with a specific focus on policy-making. Hence, it starts with a brief history of the evolution of common commercial policy to draw a framework to understand current dynamics of inter-institutional relations in trade policy making. The policy making process is presented by thoroughly explaining the roles of each relevant actor. After providing a general understanding of key concepts and decision making procedures in common trade policy, a theoretical review of the most remarkable studies in the field is presented.

1.1. HISTORICAL EVOLUTION OF COMMON COMMERCIAL POLICY AND TRADE POLICY MAKING

Trade policy is one of the oldest and most deeply integrated fields in the EU which was originally founded on the basis of a common market. According to the Article 113 of the Treaty of Rome (1958), international trade agreements had to be decided by unanimity in the Council of Ministers following the eight-year period. Then, the Treaty envisaged that unanimity would be replaced by qualified majority. However, at that time, France was successful to keep the unanimity, through the Luxembourg compromise of 1966, for those issues that are related with significant national interests.[1] That paved the way for the debates on trade competence in the EU for the following decades.

[1] Luxembourg compromise was an agreement reached to solve the 'Empty Chair Crises' in the middle of the 1960s. The crises began with the Commission's proposal for the financial regulation of the agricultural policy in 1965. The proposal was based on a common agricultural policy (CAP) financed by the Commission's own resources, controlled by the European Parliament and implemented through majority voting in the Council. This was regarded by France a revolutionary step towards federalism and thus a threat to the French national sovereignty. In response, the President De Gaulle boycotted

The framework of the common commercial policy was originally provided by the GATT, to which all the six founding member states of the EU (Belgium, France, Germany, Italy, Luxembourg and Netherlands) were contracting parties. With the Treaty of Rome, they agreed to establish a customs union laying the foundation of EU's external trade policy. The customs union required a common external tariff, a common trade policy towards third countries and a uniform application of trade instruments throughout the EEC. In July 1968, the customs union was set with the removal of the intra-Community tariffs as well as with the establishment of a common external tariff.

In the Treaty of Rome, the provisions regarding the external trade policy are found in the Article 113. Through this article, the EU member states granted the EEC exclusive competence on external trade in goods. The delegation of authority followed two stages. First, the member states delegated their authority to the Council. In the second stage, the Council gave mandate to the European Commission that would negotiate international trade agreements on behalf of the member states.[2] Commission's authority was initially executed in the fields of tariff rates, anti-dumping and subsidies that were the main issues handled in the multilateral GATT negotiations at that time. With the start of Uruguay Round of the multilateral trade negotiations in 1986, new trade fields began to emerge on the international trade agenda. The Uruguay Round was organized in order to discuss three new trade-related issues; services, trade-related intellectual property rights and trade related investment measures. As these issues have been traditionally evaluated as domestic policies, the EU member states were reluctant to place them under the common commercial policy. In addition, Uruguay Round negotiations comprised non-tariff barriers to trade such as environmental, social and health related aspects of trade policy which were not covered by the EU's trade authority, either.[3] Thus, discussions

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the Council meetings. The crisis was finally resolved by the Luxembourg compromise that rejected the proposal for the CAP and allowed member states to veto the decisions related with crucial national interests.

[2] Sophie Meunier and Kalypso Nicolaidis, "EU Trade Policy: The Exclusive versus Shared Competence Debate", **Risks, Reform, Resistance, and Revival,** Vol. 5, (Ed. Maria Green Cowles and Michael Smith), Oxford University Press, New York, 2000, p. 328.

[3] Cornelia Woll, "Trade Policy Lobbying in the European Union. Who Captures Whom?, **Lobbying the European Union: Institutions, Actors, and Issues,** (Eds. David Coen and Jeremy Richardson), Oxford University Press, New York, 2009, p. 279.

on delegation of authority in trade policy making started to emerge in the EU. They focused on whether the new issues would fall under the competence of the Commission or the member states would retain their power.

Following the conclusion of the Uruguay Round, the issue of competence also arose regarding the ratification of the final agreement by the EU and member states. After heated discussions, the President of the Council and the External Trade Commissioner signed the agreement on behalf of the EU and member states representatives signed it separately.[4] The debates on authority also continued as a result of the creation of WTO after the Uruguay Round Agreements. Previously, the issue of membership to GATT did not arise formally in the EU since the GATT was an agreement with signatories rather than an organization with members.[5] The Commission could be acting on behalf of the member states in GATT Rounds. However, the establishment of WTO and the new scope of international trade made it a requirement for the EU to clarify the competence issue in trade policy. Hence, in 1994, the Commission asked the Court of Justice of the European Union (CJEU) for an advisory opinion on distribution of competences between the EU and member states. Being in favor of exclusive competence in the new fields of trade, the Commission hoped that any objection by reluctant member states could be hindered legally.[6] In fact, the Council and eight member states[7] were objecting the Commission's stance on economic and ideological grounds. France and United Kingdom was opposing any expansion of the Commission's supranational authority due to the sovereignty related concerns. Germany had doubts about its economic competitiveness in services against France and United Kingdom.[8] The three countries were in favor of limiting EU exclusive competence only to the services that are related to the sale of goods.[9] Greece and Portugal were sensitive in protecting their sovereign power in several sectors such as shipping (for Greece) and textiles (for

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[4] Meunier and Nicolaidis, EU Trade Policy, p. 334.

[5] Sophie Meunier and Kalypso Nicolaidis, "The European Union as a Trade Power", **International Relations and the European Union**, Third Edition, (Eds. Christopher Hill, Michael Smith and Sophie Vanhoonacker), Oxford University Press, Oxford, 2017, p. 213.

[6] Meunier and Nicolaidis, EU Trade Policy, p. 335.

[7] These states were Denmark, France, Germany, Greece, Netherlands, Portugal, Spain and the United Kingdom.

[8] Meunier and Nicolaidis, EU Trade Policy, p. 335.

[9] Alasdair R. Young, **Extending European Cooperation: The European Union and the 'new' International Trade Agenda**, Manchester University Press, Manchester, 2002, p. 43.

Portugal). On the other hand, Italy, Belgium and Ireland were supporters of devolution of more sovereignty to the Commission.[10]

While pending the Court's decision on the competence issue, in May 1994, the Commission, the Council and member state governments agreed on a code of conduct which enabled the Commission to negotiate on behalf of the EU in the post-Uruguay Round negotiations related to the services. However, the code of conduct also institutionalized participation of member states into negotiation meetings and underlined that the Commission should always keep the member states informed about the course of negotiations.[11]

In November 1994, the Court of Justice communicated its decision stating that the Commission retained exclusive competence for negotiation and implementation on trade in goods; however, it shared mixed competence with the member states on trade in services and trade-related aspects of intellectual property rights. In the years following the 1994 Court decision, the Commission continued to insist on extending its authority to the areas covered by the WTO Agreements. Finally, in the 1999 Amsterdam Treaty, the Article 113 was amended to permit the extension of common commercial policy to services and intellectual property rights by unanimous decision by the Council, without a requirement for a treaty change.

After the changes introduced by the Amsterdam Treaty, the EU decided to handle the trade competence issue once more at the Nice Summit, in December 2000, for several reasons. The first reason was the rise of international trade in services to the significant levels since 1997. For an efficient and effective trade policy, the Commission insisted that trade in services should be covered under the exclusive competence. Second, in the late 1990s, trade became a politically hot issue as a result of anti-globalization activities organized worldwide. The defeat of Multilateral Agreement on Investment as well as the stop of multilateral trade negotiations in Seattle in the late 1990s resulted in politicization of trade and created a political sensitivity especially towards the fields of culture, education and social services. The international conjuncture contributed to keeping the institutional debates on trade competence warm in the EU. In addition, the imminent enlargement of the EU made

[10] Meunier and Nicolaidis, EU Trade Policy, p. 336.
[11] Young, pp. 41-42.

it necessary for existing member states to design a new institutional arrangement.[12] The outcome was the 2003 Treaty of Nice that granted the Commission exclusive competence over commercial aspects of intellectual property and services, excluding politically sensitive fields, i.e., cultural and audio-visual services, educational services, and social and human health services. This was a compromise between the Commission's demand for exclusive competence in all areas covered by the WTO Agreements and the supporters for status quo in mixed competency areas. Moreover, the treaty introduced a new enabling clause that could allow the Council to expand the scope of intellectual property agreements beyond the commercial aspects.

Finally, the Treaty of Lisbon, signed in 2007, brought about significant changes with regards to the European trade policy. Firstly, in addition to the trade in services and intellectual property rights, foreign direct investment also started to be covered under the exclusive competence of the EU. Besides, in the agreement, the common commercial policy was placed under the heading of the External Action by the Union. As it is stated in the Article 188 C, "Common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action."[13]

Another important change introduced by the Treaty of Lisbon is related with the role of the European Parliament in trade policy making. Before the Treaty of Lisbon, its role in trade legislation was limited to consultation.[14] Neither of the treaty amendments until the date of signing the Treaty of Lisbon had resulted in rising power of the European Parliament in conducting common commercial policy. In the past, some arrangements were made that improved only its informal role. For example, in 1964, the 'Luns Procedure' enabled the European Parliament to debate before the beginning and after the end of the negotiations of association agreements. With the 1973 'Westerterp Procedure', the European Parliament began to be updated during the negotiations of commercial agreements. Before signing of an agreement, the Parliament was being informed about its substance. In 1982, the scope of the

[12] Meunier and Nicolaidis, Trade Power, p. 214.
[13] "Treaty of Lisbon", Article 188 C, **Official Journal of the European Union**, C 306/1, 17.12.2007, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12007L%2FTXT, (18.12.2017).
[14] Stephen Woolcock, "EU Trade and Investment Policymaking after the Lisbon Treaty", **Intereconomics,** Vol. 45, No. 1, 2010, p. 23.

‘Luns-Westerterp Procedure’ was extended to consultation to the Parliament for conclusion of any international agreement. A code of conduct, agreed between the Commission and European Parliament in 1995, reinforced their institutional relationship informally.[15] It was the Lisbon Treaty that clearly granted a formal power to the European Parliament in trade policy making. Thanks to the ordinary legislative procedure, the Parliament became a significant institution in implementation and conclusion of the international trade agreements. Moreover, for the first time in an EU treaty it was explicitly stated that the Commission has to ‘report regularly’ to the Parliament ‘on the progress of negotiations’.[16]

1.1.1. Current Trade Policy Making and the Main Actors

In the current institutional setting of the EU, the Commission is responsible for implementation of common commercial policy. In international trade negotiations, it represents the EU on behalf of the member states. The Article 218 of the Treaty on the Functioning of the European Union (TFEU) sets down the provisions regarding negotiations and conclusion of international agreements.[17] In order to start the negotiations, the Commission is obliged to be authorized by the Council. While the negotiations are ongoing, the Commission keeps the member states in the Council as well as the European Parliament regularly informed. Once an agreement is achieved between the Commission and the trading partner as a result of the negotiations, the Commission submits it both to the Council and Parliament. The two institutions are jointly responsible for agreeing formally on the deal to be signed and ratified. The Council adopts the decision to authorize the signing of the deal and after getting the consent of the European Parliament, it adopts a decision for conclusion of the agreement. The agreement can enter into force once it is fully ratified; however, some parts of the agreement can be still applied with the member

[15] Lore Van den Putte, Ferdi De Ville and Jan Orbie, “The European Parliament as an International Actor in Trade: From Power to Impact”, **The European Parliament and its International Relations**, (Eds. Stelios Stavridis and Daniela Irrera), Routledge, New York, 2015, pp. 53-54.
[16] Treaty of Lisbon, Article 188 C.
[17] “Treaty on the Functioning of the European Union”, Article 218, **Official Journal of the European Union**, C 326/47, 26.10.2012, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:EN:PDF, (17.09.2017).

states' agreement without waiting for ratification. Signing and ratification process is executed in accordance with the legal distribution of trade competences between the EU and member states. If an agreement covers those fields that still fall under the competence of the member states, it is called as mixed agreement and must be signed and ratified both by the EU and the member states. Since it may take a long period of time to ratify mixed agreements, in practice, an interim agreement covering the areas that are under the exclusive competence can be concluded which enters into force without a requirement of ratification by the member states.[18] Another option is the decision to provisionally apply certain parts of the agreement, which presents a quick and pragmatic solution.[19]

As the given framework indicates, the main actors in EU trade policy making are the Commission, the Council and the Parliament. These institutions are regularly in contact with each other in implementation of common commercial policy. Besides these institutions, there are also other actors that are active in EU trade policy. For example, through lobbying at the national or European level, business interest groups organize to affect policy outcomes in line with their preferences. Moreover, recent veto by the francophone region of Belgium, Wallonia, to sign the CETA revealed that regional and community parliaments may also play a significant role in the process of signing and ratifying an international trade agreement. The roles played by all of these institutions or entities in EU trade policy are separately explained below.

1.1.1.1. The European Commission

The European Commission is the sole authority to propose international trade agreements and negotiate on behalf of the member states. Through the Article 113 of the Treaty of Rome, the member states delegated the execution of European external trade policy to the European Commission.

The Commission is regularly in contact with the Council and the European Parliament regarding any plans to negotiate trade agreements with a trade partner.

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[18] Sieglinde Gstöhl, "The European Union's Trade Policy", **Ritsumeikan International Affairs,** Vol. 11, 2013, p. 13.

[19] Marc Maresceau, "A Typology of Mixed Bilateral Agreements", **Mixed Agreements Revisited: The EU and its Member States in the World**, (Eds. Christophe Hillion and Panos Koutrakos), Bloomsbury Publishing, Oxford and Portland, 2010, p. 13.

Before starting negotiations, the Commission also consults to the public on the content of any trade agreement and conducts a study of impact assessment in order to determine the potential effects of the deal both on the EU and the trading partner. Generally, it initiates an informal dialogue with the counterpart regarding the content of the potential agreement. This practice is called as "scoping exercise".[20]

In order to negotiate a trade agreement, the Commission must request a formal authorization from the Council. In the Commission, the Directorate-General for Trade (DG Trade) prepares the draft for mandate and after consultation with other Directorate-Generals, it proposes the draft to the College of Commissioners. It is then submitted to the Council. Once it is adopted by the Council, the process of formal authorization of the Commission is completed.

During the negotiation process, the Commission regularly reports and updates the Council as well as the European Parliament. The negotiations are mainly executed by the DG Trade; however, the dialogue between chief negotiators and experts from other Directorate-Generals continue while negotiations are conducted in rounds. After each negotiation round, the Commission has to inform the Council and the Parliament.

When an agreement is reached between the Commission and the trading partner, the Commission presents it to the Council and the European Parliament.

1.1.1.2. The Council of the European Union

The Council of the European Union plays a key role in authorization of the European Commission for negotiations and in conclusion of international trade agreements. To start negotiations with a trading partner, the Commission prepares the draft for the negotiating mandate and submits it to the Council. It is discussed in the Trade Policy Committee (TPC) which is a working group of the Council composed of member states' and Commission's senior trade officials. Besides the TPC, working parties established by the Council also examine the Commission's draft text. After detailed analyses, the TPC tries to achieve a consensus on the

[20] European Commission, "Negotiating EU trade agreements", **Trade,** 07.2012, https://trade.ec.europa.eu/doclib/docs/2012/june/tradoc_149616.pdf, (18.07.2019), p. 3.

proposal[21] and forwards the final text to the Committee of Permanent Representatives (COREPER) that is composed of officials from the member states. At the end, the Foreign Affairs Council approves the mandate and defines guidelines for negotiation.[22]

As the Commission has to regularly report the TPC regarding the ongoing negotiations, member states are able to monitor the negotiations closely through the TPC. TPC plays a crucial role in overcoming differences among preferences of the member states before submitting the issues to the Foreign Affairs Council.[23]

Once the negotiations conclude and the Commission and the counterpart agree on the text of the agreement, the Commission submits it to the Council and Parliament since it must be adopted by both of the institutions in accordance with the ordinary legislative procedure. The Council may adopt it either by qualified majority or unanimity depending on the areas of competences covered by the agreement. In the areas of exclusive EU competence, the trade agreements are ratified by qualified majority voting in the Council. The fields requiring a unanimous decision are specified in Article 207 of TFEU. They are as following:

- trade in services, commercial aspects of intellectual property, as well as foreign direct investment, if the agreement includes provisions for a requirement of unanimity for domestic adoption;
- cultural and audiovisual services, if the agreement threatens the Union's cultural and linguistic diversity;
- social, education and health services, if the agreement risks national practices in these fields.[24]

If the agreement covers fields requiring unanimity, in the ratification process, member states preserve their veto power not only during voting in the Council but also through voting in their national parliaments[25] as the agreement has also to be ratified by all of the member states separately. All of the parliaments in the EU

[21] The TPC may also make amendments on the proposal.
[22] In principle, the decision to authorize the Commission is taken by qualified majority. However, in practice, it is taken by consensus. For details see: Gstöhl, pp. 1-22.
[23] Gstöhl, p. 11.
[24] Treaty on the Functioning of the European Union, Article 207.
[25] Meunier and Nicolaidis, EU Trade Policy, p. 330.

member states except for Malta are involved in the ratification process.[26] For the bicameral systems, ratification process is executed according to the legal distribution of the competences between the chambers of the parliament. For example, while in Belgium and Ireland senates are not involved, in Czech Republic, Spain, France, Italy, the Netherlands, Poland and Romania, both chambers are involved in the parliamentary approval process. In Germany and Austria, the upper chambers' approval is required for certain types of international agreements in case they are relevant for the regions.[27]

In nearly half of the member states, holding a referendum for ratification is also an option. However, it is generally not explicitly stated in the national constitutions or legislative provisions. Only in France and the Netherlands, referendum is expressly allowed.[28]

1.1.1.3. The European Parliament

Due to its negligible role in the formulation of the common commercial policy historically, the Parliament's technical expertise and staff capacity are limited compared to the Commission in the field of trade. The Committee of International Trade (INTA), which is responsible for the issues regarding the establishment and implementation of the common commercial policy and the Union's external relations, was established as recently as 2004.[29] Although the European Parliament does still not have a formal power to authorize the opening of negotiations and to formulate the main objectives of international trade agreements, its role in trade policy has enhanced considerably with the Treaty of Lisbon. Mainly, the Parliament was empowered with legislative power in common commercial policy and with a

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[26] Anna Eschbach, "The Ratification Process in EU Member States", 2016, https://ttip2016.eu/files/content/docs/Full%20documents/Eschbach_Ratification-TTIP-CETA-in-EU-MS.pdf, (12.04.2019), p. 36.

[27] European Parliament, "Ratification of International Agreements by EU Member States", **Briefing,** 11.2016, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593513/EPRS_BRI(2016)593513_EN.pdf , (08.11.2018), p. 2.

[28] European Parliament, Ratification, p.3.

[29] David Kleimann, "Taking Stock: EU Common Commercial Policy in the Lisbon Era", **CEPS Working Document**, 29.04.2011, https://www.ceps.eu/ceps-publications/taking-stock-eu-common-commercial-policy-lisbon-era/, (15.06.2018), p.13.

formal right to consent to or reject an international trade and investment agreement.

For implementation of the common commercial policy, the Parliament shares legislative power with the Council. According to Article 207(2) of TFEU, "The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy."[30] The ordinary legislative procedure is composed of three reading stages. In the first reading, the Parliament decides by a simple majority on the text drafted by the Commission with or without amendments. If it is approved by the Council, the act is adopted. If the Council does not agree with the Parliament's decision, it takes its own position and sends the text back to the Parliament with explanations. In the second reading, the Parliament may approve the text by a simple majority. If it rejects the Council's proposal by an absolute majority, the act fails at this stage. If the Parliament proposes amendments, the Council may approve the text by a qualified majority; however, unanimity is required on the amendments on which the Commission expressed negative opinion. In the case of Council's rejection, a conciliation committee is established that is composed of an equal number of representatives from the Council and the Parliament and moderated by the Commission. If the committee cannot agree on a common position, the act fails. If it manages to agree on a common text, then the stage of third reading begins. Within a time limit, the Parliament's and the Council's agreement on the common text is expected.[31]

The European Parliament also plays a significant role in the conclusion of an international trade agreement. In order to conclude an agreement, the Parliament's consent must be taken. Based on the recommendation from the INTA Committee, the Parliament decides by simple majority voting. It can either consent to or reject the agreement negotiated by the Commission. However, the Parliament does not have right to make any amendments in this process.[32]

Thanks to the arrangement made by the Lisbon Treaty, the Commission must regularly inform the Parliament at all stages.[33] Since the Parliament's consent is

[30] Treaty on the Functioning of the European Union, Article 207(2).
[31] Treaty on the Functioning of the European Union, Article 294.
[32] Gstöhl, p. 11.
[33] Treaty on the Functioning of the European Union, Article 218(10).

required for the adoption of an international trade agreement at the end of the negotiations, it is significant for the Commission to regularly discuss EU's position with the Parliament while negotiations are ongoing. The Parliament may adopt resolutions either at the beginning of or during the negotiations. These resolutions shed light on the political position of the Parliament towards the negotiations and reflect its main concerns. They may also be in the form of recommendations on the future of the negotiations.[34] Through resolutions, the Parliament may also call for binding clauses addressing human rights as well as social and environmental standards.[35] Whereas the Commission is not legally compelled to follow the Parliament's recommendations, it does take them into consideration in order to secure the Parliament's consent at the end.[36]

1.1.1.4. Business Interest Groups

The business interest groups correspond to the European cross-sectoral trade and industry associations, sectoral business associations, national business representations as well as individual companies. One of the major European business-wide associations is the Confederation of European Business (BusinessEurope- formerly the Union of Industrial and Employers' Confederations or UNICE) which represents all of the member states' national business associations as well as those of six other countries. Another one is the Association of European Chambers of Commerce and Industry (EUROCHAMBRES) composed of forty five national associations of Chambers of Commerce and Industry and two transnational chamber organizations. The European Roundtable of Industrialists (ERT) is another effective business group representing the interests of the major European companies.

In EU trade policy, the business interests are mainly represented through business lobbying. Lobbying generally refers to "a concerted effort to influence

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[34] European Parliament, "A Guide to EU Procedures for the Conclusion of International Trade Agreements", **Briefing,** 10.2016, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593489/EPRS_BRI(2016)593489_EN.pdf , (16.09.2017), p. 4.

[35] Youri Devuyst, "European Union Law and Practice in the Negotiation and Conclusion of International Trade Agreements", **Journal of International Business and Law,** Vol. 12, No. 2, 2013, p. 299.

[36] European Parliament, A Guide, p. 4.

policy formulation and decision-making with a view to obtaining some designated result from government authorities and elected representatives."[37] Business lobbying at the EU level was officially recognized for the first time by the 'Cecchini Report' issued by the European Commission in 1988. The report called for more active and direct participation of business interest groups into the EU policy-making. In 1995, the European Parliament formulated a register for interest representatives. That was also materialized by the European Commission in 2008. In 2011, the two registers were merged establishing a Joint European Transparency Register.[38]

According to Article 11 of Treaty on European Union (TEU), the EU institutions shall be regularly in contact with the representative associations.[39] The European Commission is obliged to consult with stakeholders to ensure that the Union's actions are coherent and transparent. In order to target the EU institutions with an intention of affecting the policy making in line with their preferences, the interest groups may prefer direct or indirect lobbying, or both. Direct lobbying refers to a direct contact or communication with EU institutions. Indirect lobbying means the use of intermediate tools such as media, public opinion, conferences or social events.[40] Lobbying activities can be carried out both by the European and national business groups. The latter may either make their voice heard through national parties/politicians or may prefer to lobby the EU institutions directly. It is also

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[37] José Mendes Bota, "Lobbying in a Democratic Society (European Code of Conduct on Lobbying)", **Council of Europe Parliamentary Assembly Report**, 05.06.2009, http://semantic-pace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbnQvbncveG1sL1hSZWYvWDJILURXLWV4dHIuYXNwP2ZpbGVpZD0xMjIwNSZsYW5nPUVO&xsl=aHR0cDovL3NlbWFudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJlZi1XRC1BVC1YTUwyUERGLnhzbA==&xsltparams=ZmlsZWlkPTEyMjA1, (08.08.2018), p. 5.

[38] European Parliament, "Transparency of Lobbying at EU Level", **Briefing**, 12.2015, http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS_BRI(2015)572803_EN.pdf, (07.08.2018), p. 2. On 23 June 2011, the Parliament and the Commission signed an inter-institutional agreement on a Transparency Register which provides an online public database to be filled by the lobbyists regularly on a voluntary basis. Mainly, the registrants need to provide estimated annual costs related to their activities, the number of representatives, as well as information of any EU funding received. For detailed information, see: European Parliament, "EU Transparency Register", **Briefing**, 05.2016, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf, (12.08.2018).

[39] "Treaty on European Union", Article 11, **Official Journal of the European Union**, C 326/21, 26.10.2012, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF, (26.08.2018).

[40] European Parliament, EU Transparency Register, p. 5.

possible for interest groups from different member states to ally among themselves in order to increase the chance to be taken into account.[41]

A significant number of national business associations as well as individual firms -especially large multinational corporations- have their own offices in Brussels.[42] It is difficult to provide a precise number of lobbyists since a clear definition of a 'lobbyist' does not exist and registration to the joint European Commission and European Parliament Transparency Register is not mandatory. However, it is estimated that there are between 15.000 and 30.000 lobbyists representing business interests in Brussels.[43]

1.1.1.5. The Regions

It is significant how the concept of region is defined because it may have different meanings depending on geographical, political or functional categorizations. In this context, it is aimed to explain those regions that play a politically relevant role in signing and ratification of the EU's international trade agreements. Thus, the concept of region is used here as a sub-national political and administrative entity. This definition is compatible with that of the Assembly of European Regions describing regions as "territorial authorities between the central government and local authorities, with a political representation power as entrusted by an elected assembly."[44]

As mentioned earlier, mixed agreements must be signed and ratified both by the EU and the member states. Mostly, the regions' involvement in the ratification of international trade agreements is limited to their seats in second chambers in the national parliaments.[45] However, there is one exception: Belgium. Belgium is a

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41 Library of the European Parliament, "Lobbying the EU institutions", **Library Briefing**, 18.06.2013, https://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/130558/LDM_BRI(2013)130558_REV1_EN.pdf, (11.09.2018), p. 4.

42 European Parliament, "Lobbying in the European Union: Current Rules and Practices", **Constitutional Affairs Series Working Paper**, 04.2003, http://www.europarl.europa.eu/RegData/etudes/etudes/join/2003/329438/DG-4-AFCO_ET(2003)329438_EN.pdf, (11.09.2018), p. 53.

43 Library of the European Parliament, p. 3.

44 Assembly of European Regions, "AER Statutes", 05.06.2019, https://aer.eu/aer-statute/ , (12.08.2019), Article 3(2).

45 European Parliament, Ratification, p. 2.

federal state composed of three regions and three communities with legislative and executive powers. In addition to the House of Representatives at the federal level, the parliaments of the three regions; Brussels-Capital, Flanders, and Wallonia as well as the parliaments of French Community, German-speaking Community, French Community Commission and Common Community Commission are responsible for approving an international trade agreement. The Flemish Parliament represents both the Flemish Community and the Flemish Community Commission besides the Flemish region.[46] According to the Belgium's constitution, all of the regional and community parliaments must approve the federal government's decision for both signing and ratifying a trade agreement.[47] The third chapter of the dissertation reveals how one of the regions of Belgium played a significant role in affecting the future of CETA.

1.2. THEORETICAL ASPECTS OF EU TRADE POLICY

The European trade policy literature started to attract scholarly attention only recently. Both theoretical and empirical studies in this field began to be conducted nearly two decades ago. The literature has been mainly constructed upon the concepts and approaches that belong to comparative politics, international relations and international political economy literatures.[48]

The studies in the European trade policy literature generally use either an internal or external perspective to EU trade policy. Studies with an internal perspective mostly examine the relationship between the Council and the Commission in trade policy making. A significant number of studies applies principal-agent approach.[49] This approach explains delegation of power from

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[46] For details see: European Parliament, Ratification, p. 4.

[47] Guillaume Van der Loo and Jacques Pelkmans, "Does Wallonia's Veto of CETA Spell the Beginning of the End of EU Trade Policy?", **CEPS Commentary**, 20.10.2016, https://www.ceps.eu/ceps-publications/does-wallonias-veto-ceta-spell-beginning-end-eu-trade-policy/, (03.11.2018), p. 1; European Parliament, Ratification, p. 2.

[48] Arlo Poletti and Dirk De Bièvre, "The Political Science of EU Trade Policy: A Literature Review with a Research Outlook", **Comparative European Politics**, Vol. 12, No. 1, 2013, p. 2.

[49] Stijn Billiet, "Principal–agent Analysis and the Study of the EU: What about the EC's External Relations?", **Comparative European Politics**, 2009, Vol. 7, No. 4, pp. 435–454; Chad Damro, "EU Delegation and Agency in International Trade Negotiations: A Cautionary Comparison", **Journal of Common Market Studies**, Vol. 45, No. 4, 2007, pp. 883–903; Tom Delreux and Bart Kerremans,

member states as principals to the Commission as the agent.[50] In the EU institutional setting, besides member states, there are also other actors such as the European Parliament or business interest groups interacting with the Commission in order to influence the policy making. They are called as principals, either. In the field of EU trade policy, Elsig distinguishes between collective principals and multiplicity of principals.[51] While collective principals correspond to member states, multiplicity of principals refers to multiple actors (member states, European Parliament, interest groups etc.) that affect European trade policy making. Thus, some studies apply a multiple approach to principal-agent relationship. For example, besides the relationship between the Council and Commission, Reichert and Jungblut examine other principal-agent links in EU external trade policy such as the one between European Parliament and European Commission, member state publics and member states parliaments, member states parliaments and member state governments, member state publics and European Parliament.[52] In their study measuring level of discretion that the Commission enjoys as an agent in EU trade policy, Gastinger and Adriaensen examine the Council, Parliament and European citizens as principals.[53] Besides, a vast array of the literature emphasizes on the role of interest groups in policy making in EU trade.[54]

"How Agents Weaken their Principals' Incentives to Control: The Case of EU Negotiators and EU Member States in Multilateral Negotiations", **Journal of European Integration**, Vol. 32, No. 4, 2010, pp. 357-374; Manfred Elsig, "The EU's Choice of Regulatory Venues for Trade Negotiations: A Tale of Agency Power?", **Journal of Common Market Studies**, Vol. 45, No. 4, 2007, pp. 927–948.

[50] Fabio Franchino, **The Powers of the Union: Delegation in the EU**, Cambridge University Press, Cambridge, 2007; Mark A. Pollack, **The Engines of European Integration: Delegation, Agency, and Agenda Setting in the EU**, Oxford University Press, Oxford, 2003.

[51] Elsig, Regulatory Venues, pp. 931-932.

[52] M. Shawn Reichert and Bernadette M. E. Jungblut, "European Union External Trade Policy: Multilevel Principal–agent Relationships", **The Policy Studies Journal**, Vol. 35, No. 3, 2007, pp. 395-418.

[53] Markus Gastinger and Johan Adriaensen, "Of Principal(s') Interest? A Disaggregated, Multiple Principals' Approach to Commission Discretion", **Journal of Common Market Studies**, Vol. 57, No. 2, 2019, pp. 353–370.

[54] Dirk De Biévre and Andreas Dür, "Constituency Interests and Delegation in European and American Trade Policy", **Comparative Political Studies**, Vol. 38, No. 10, 2005, pp. 1271–1296; Andreas Dür, "Bringing Economic Interests Back into the Study of EU Trade Policy-making", **British Journal of Politics and International Relations**, Vol. 10, No.1, 2008, pp. 27–45; Adrian Van den Hoven, "Interest Group Influence on Trade Policy in a Multilevel Polity: Analysing the EU Position at the Doha WTO Ministerial Conference", **EUI RSC Working Paper**, No. 67, 2002; Woll, Trade Policy Lobbying, pp. 268–288.

The studies examining EU trade policy from an external perspective apply realist, political-economic or constructivist approaches. They mostly focus on international economic and political factors that have an impact on EU trade policy.[55] Politically significant international developments such as the end of the cold war or multilateral trade regime led by the WTO are the mostly referred subjects in this context. According to the studies that apply realist theories[56], the EU trade policy is formulated as a response to the developments in international system. The EU builds commercial relations in order to increase its economic and political power, to ensure security as well as to balance against competitors in the international economic system. There are also some scholars that take a more critical stance towards EU trade policy. According to them, trade policy is a strategic tool used by the EU to materialize its imperial interests in a hierarchical and coercive way.[57]

Some other scholars discuss the power and effectiveness of the EU as an actor in international trade.[58] The studies using a constructivist point of view[59] mainly

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[55] Mahrukh Doctor, "Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement", **Journal of Common Market Studies**, Vol. 45, No. 2, 2007, pp. 281–314; Jörg Faust, "Blueprint for an Interregional Future? The European Union and the Southern Cone", **EU Trade Strategies: Between Regionalism and Globalism,** (Eds. Vinod K. Aggarwal and Edward Fogarty), Palgrave Macmillan, New York, 2004, pp. 41-63; John Ravenhill, "Back to the Nest? Europe's Relations with the African, Caribbean and Pacific Group of Countries", **EU Trade Strategies: Between Regionalism and Globalism,** (Eds. Vinod K. Aggarwal and Edward Fogarty), Palgrave Macmillan, New York, 2004, pp. 118-147.

[56] Mary Farrell, "A Triumph of Realism over Idealism? Cooperation between the European Union and Africa", **Journal of European Integration**, Vol. 27, No. 3, 2005, pp. 263–283; María García, "From Idealism to Realism? EU Preferential Trade Agreement Policy", **Journal of Contemporary European Research**, Vol. 9, No. 4, 2013, pp. 521-541; Hubert Zimmermann, "Realist power Europe? The EU in the Negotiations about China's and Russia's WTO Accession", **Journal of Common Market Studies**, Vol. 45, No. 4, 2007, pp. 813–832.

[57] Stephen R. Hurt, "Co-operation and Coercion? The Cotonou Agreement between the European Union and ACP States and the End of the Lomé convention", **Third World Quarterly**, Vol. 24, No. 1, 2003, pp. 161–176; Mark Langan, "ACP–EU Normative Concessions from Stabex to Private Sector Development: Why the European Union's Moralised Pursuit of a 'Deep' Trade Agenda is Nothing 'New' in ACP–EU Relations", **Perspectives on European Politics and Society**, Vol. 10, No. 3, 2009, pp. 416-440; Andy Storey, "Normative Power Europe? Economic Partnership Agreements and Africa", **Journal of Contemporary African Studies**, Vol. 24, No. 3, 2006, pp. 331-346.

[58] Sophie Meunier, "What Single Voice? European Institutions and EU-U.S. Trade Negotiations", **International Organization**, Vol. 54, No. 1, 2000, pp. 103-135; Sophie Meunier and Kalypso Nicolaidis, "The European Union as a Conflicted Trade Power", **Journal of European Public Policy**, Vol. 13, No. 6, 2006, pp. 906–925;

[59] Gabriel Siles-Brügge, 'The Power of Economic Ideas: A Constructivist Political Economy of EU Trade Policy", **Journal of Contemporary European Research**, Vol. 9, No. 4, 2013, pp. 597-617; Jean B. Grugel, "New Regionalism and Modes of Governance - Comparing US and EU Strategies in Latin America", **European Journal of International Relations**, Vol. 10, No. 4, 2004, pp. 603–626; Jan Orbie and Sangeeta Khorana, "Normative versus Market Power Europe? The EU-India Trade Agreement", **Asia Europe Journal**, Vol. 13, No. 3, 2015, pp. 253–264.

focus on the role of the internalization and externalization of neoliberal principles by the EU in displaying its international actorness. Damro defines the EU as a market power and examines its role in externalization of its market-related and regulatory policies.[60]

Theoretical aspects of the EU trade policy are elaborated below in further detail.

1.2.1. Principal-Agent Approach

Principal–agent approach was originally developed by American scholars studying the role of institutions in the United States (US) Congress. It is based on new institutionalism in rational choice theory and mainly deals with the process of delegation of authority from one entity or institution to another institution. In EU institutional setting, it focuses on delegation of power from member states to a supranational institution that is the Commission. A substantial amount of research in EU trade policy literature is based on principal-agent approach. It is generally used to survey the autonomy that the Commission can enjoy as the agent and the mechanisms used by member states as the principals to control the Commission.[61] Thus, the main focus of the studies in this field is the relationship between the Commission and the Council. Do they share power equally or does one side dominate the other? This kind of questions is tried to be answered by various scholars.[62] Some authors argue that member states have more power than the Commission in EU external trade governance.[63] Others focus on the Commission's

[60] Chad Damro, "Market Power Europe", **Journal of European Public Policy**, Vol. 19, No. 5, 2012, p. 697.
[61] Mark A. Pollack, "Delegation, Agency, and Agenda Setting in the European Community", **International Organization**, Vol. 51, No. 1, 1997, pp. 100-101.
[62] Stijn Billiet, "From GATT to the WTO: The Internal Struggle for External Competences in the EU", **Journal of Common Market Studies**, Vol. 44, No. 5, 2006, pp. 899–919; De Biévre and Dür, pp. 1271–1296; Sophie Meunier and Kalypso Nicolaidis, "Who Speaks for Europe? The Delegation of Trade Authority in the European Union", **Journal of Common Market Studies**, Vol. 37, No. 3, 1999, pp. 477–501; Young.
[63] Vinod K. Aggarwal and Edward Fogarty, "Explaining Trends in EU Interregionalism", **EU Trade Strategies: Between Regionalism and Globalism**, (Eds. Vinod K. Aggarwal and Edward Fogarty), Palgrave Macmillan, New York, 2004, pp. 226-227; De Biévre and Dür, pp. 1271–1296; Adrian Van Den Hoven, "Assuming Leadership in Multilateral Economic Institutions: The EU's 'Development Round' Discourse and Strategy", **West European Politics**, Vol. 27, No. 2, 2004, p. 272.

advantageous position in terms of power and discretion. For example, according to Elsig, as a result of the 'autonomy by design', the Commission's discretion is large in the field of trade. Firstly, Commission has agenda setting power. It makes proposals on choosing trading partners and setting the main objectives of potential trade agreements. Secondly, it possesses representational power since it acts as a negotiator on behalf of the member states. Thirdly, the Commission has also implementation related power as it enables the execution of different trade instruments.[64]

The literature emphasizes on various mechanisms through which the principals can control the agent before, during and after negotiations. First, it is the member states that appoint the Commissioners and authorize the Commission for trade negotiations. At the initial stage of the negotiations, the member states' ability to control the Commission depends on the flexibility of mandate to be designed. During the negotiations, the control may be exercised by setting the degree of autonomy granted to the Commission formally or informally.[65] At this stage, member states can control the Commission mainly through the TPC[66]. Moreover, for conclusion of a commercial agreement, member states may limit the Commission's authority through voting in the Council. They may reject the ratification of the negotiated agreement. Kerremans classifies these control devices as negotiating directives (an ex ante control mechanism), monitoring (at locum) and involuntary defection (ex post control mechanism).[67]

At the authorization stage, member states give a discretion-based delegation mandate to the Commission which leaves it to the agent's discretion how to apply it to the negotiation and conclusion of a commercial agreement within the generally defined guidelines. As the discretion is very broad and open to interpretation, it is up to the Commission to determine how far it will go with the concessions during

[64] Elsig, Regulatory Venues, pp. 927–948.
[65] Meunier, p. 111.
[66] TPC is the former Article 133 Committee.
[67] Bart Kerremans, "Principal(s) versus Agent. An Analysis of the Impact of Member States' Control on the Commission's Behaviour as Trade Policy Entrepreneur in WTO Negotiations", **IIEB Working Paper,** No. 3, 2004, p. 5.

negotiations.[68] It may act only within the given mandate (work-to-rule) while it might also prefer to use some autonomy when the mandate is flawed (gap-filling) or in times of loose-control by principals (asymmetry-exploiting). In order to be protected from the possibility of negative future reactions by the principals, agents may tend to build buffer zones (buffering) or manage the access of principals to the policy making system strategically (building permeability).[69]

There are different views regarding the degree of flexibility of the negotiating mandate and the agent's autonomy. For example, Kerremans argues that the negotiating mandate limits the actions of both the Commission and the member states and thus negatively affects the adaptation capability of the EU in multilateral trade negotiations.[70] However, Nicolaidis claims that the negotiation mandate is flexible enough for the Commission to respond the developments during the negotiations.[71] The Commission, being able to determine the mandate due to its agenda setting power, assesses the feasibility of certain options during negotiations and proposes the member states the directions to continue on negotiating.[72] Flexibility and the level of the agent's autonomy may also change depending on the subject and the stage of the negotiation process. For example, Elsig claims that the Commission is the key actor acting independently from the member states in the decision of negotiation venues (bilateral, interregional or multilateral) in EU trade policy making.[73]

During the negotiations, there are various ways for the member states to control the Commission. They can control the Commission's actions through TPC which performs a "watchdog function".[74] Being regularly monitored by TPC is

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[68] Eugénia da Conceição-Heldt, "Variation in EU Member States' Preferences and the Commission's Discretion in the Doha Round", **Journal of European Public Policy**, Vol. 18, No. 3, 2011, p. 410.
[69] Manfred Elsig, "Delegation and Agency in EU Trade Policy-Making: Bringing Brussels Back in", **EUSA Conference,** Montreal, 17-19 May 2007, p. 15.
[70] Bart Kerremans, "The European Commission and the EU Member States as Actors in the WTO Negotiating Process: Decision Making between Scylla and Charibdis?", **Decision Making Within International Organisations,** (Eds. Bob Reinalda and Bertjan Verbeek), Routledge, London, 2004, pp. 49-50.
[71] Kalypso Nicolaidis, "Minimizing Agency Costs in Two-Level Games: Lessons from the Trade Authority Controversies in the United States and the European Union", **Negotiating on Behalf of Others**, (Eds. Robert H. Mnookin and Lawrence E. Susskind), Sage, London, 2000, pp. 101-102.
[72] Delreux and Kerremans, pp. 369-370.
[73] Elsig, Delegation and Agency.
[74] Kerremans, Principal(s) versus Agent, p. 7.

significant for the Commission to understand the motivations and stance of the member states on the concessions that the Commission gives during the negotiations. In order to avoid a potential failure during the ratification process, the Commission can follow the signals sent by the member states either directly through the TPC or indirectly through media or national parliamentary speeches.[75] Member states are also able to control the Commission by directly participating to the WTO meetings. However, this type of control mechanism is difficult to execute since the time of some meetings might overlap and there are limited number of seats per member in the meeting rooms.[76]

There are also some methods that the agent may use in order to weaken principals' incentives to control. That is, the Commission may use some strategies to limit the member states' pressures, to resist the changes in member states' interests and to exploit resources.[77] For instance, it may increase the procedural costs of non-ratification. One way to do this is to involve the member states to experience the compelling atmosphere of international negotiations and enable them to make the cost-benefit analysis accordingly. Another way is to limit their involvement in the negotiations for an uninterrupted conclusion of the deal and to create a 'take it or leave it' result making defection costly for member states.[78] The Commission may also choose to exploit the heterogeneity of the member states' preferences by using a 'divide and rule' technique. Diversity of member state views on commercial issues may result in more flexible instructions for the Commission that means more autonomy for the agent.[79] Collectivity and multiplicity of the principals makes it easier for the Commission to perform its role in the multi-level system.[80] Disagreement of the member states on a certain issue presents the Commission an opportunity to play the member states against each other and to shape the collective

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[75] Eugénia da Conceição-Heldt, "Who Controls Whom: Dynamics of Power Delegation and Agency Losses in EU Trade Politics", **ECPR Joint Sessions**, Workshop 19, University of Rennes, 11-16 April 2008, p. 19.
[76] Eugénia da Conceição-Heldt, "Do Agents "Run Amok"? A Comparison of Agency Slack in the EU and US Trade Policy in the Doha Round", **Journal of Comparative Policy Analysis**: **Research and Practice**, Vol. 15, No. 1, 2013, p. 29.
[77] Elsig, Delegation and Agency, p. 15.
[78] Delreux and Kerremans, p. 369
[79] Conceição-Heldt, Variation; Delreux and Kerremans.
[80] Elsig, Delegation and Agency, p. 28.

interest.[81] The Commission can use this strategy effectively especially when there is time constraint for the member states to reach an agreement on the instructions for ongoing negotiations.[82] Moreover, in order to materialize its own preferences, the Commission may sometimes interact bilaterally with the individual states in an informal setting and may give more access to those states that support its trade strategies (building permeability).[83] Possessing a large network of officials around the world as well as expertise in the field of trade, the Commission may also exploit information asymmetries vis-a`-vis some member states. In practice, it uses this tool against the smaller states. In the words of a trade diplomat in the Commission, “Bigger states have more opportunities to make beside-the-table deals. Smaller nations need to engage more in coalitions . . . and they need to bring more often high officials from the capital to Brussels to attempt to influence the Commission’s position”.[84]

Despite possessing the ability to weaken member states’ incentives to control, it is better for Commission to maintain a cooperative relationship with the member states during trade negotiations in order to facilitate the approval of trade agreements at the end of the negotiations. Thus, the Commission has to keep a balance between its dependence on the member states at the institutional level and its independence as a negotiator at the international level.[85]

1.2.2. Interest Groups’ Influence and Lobbying

The literature on EU trade policy suggests that interest groups also have an impact on decision making. To be able to shape the EU’s trade preferences, different interests are lobbied through member states or the Commission. These may be economic interests or interests related with social, developmental or environmental concerns. Although interest groups representing business interests are found effective

[81] Conceição-Heldt, Do Agents, p. 26.
[82] Delreux and Kerremans, p. 371.
[83] Manfred Elsig, “European Union Trade Policy After Enlargement: Larger Crowds, Shifting Priorities and Informal Decision-Making, **Journal of European Public Policy,** Vol. 17, No. 6, 2010, p. 791.
[84] Elsig, European Union Trade Policy, p. 794.
[85] Kerremans, The European Commission, p. 56.

in formulation of EU trade preferences[86], non-economic interest groups voicing concerns regarding development, environment and human rights issues do not seem to be much effective in shaping trade policies.[87] Despite they are large in number and have access to policy makers, the impact of civil society organizations on EU's trade policy outcomes is limited for several reasons. First, they do not possess electorally relevant resources to influence the decisions of politicians. Second, they have diffuse interests regarding trade policies. Lastly, representatives of the Non-governmental Organizations (NGOs) tend to set very difficult and general goals to achieve.[88]

As for the impact of business interests on EU trade policy, Dür's study exploring the EU's negotiating positions in the Kennedy Round and Doha Development Agenda indicates that EU's trade strategies are significantly affected by the demands of economic interest groups.[89] Similarly, Aggarwal and Fogarty argue that EU's trade strategies are affected by the interplay of specific interest groups with diffuse economic interests. For instance, global competitors such as telecommunication and financial firms seek liberalization at the broadest possible level and support inter-regionalism as well as multilateral liberalization. However, non-export oriented groups which rely on EU protection generally choose smaller scale of economic interactions to be able to regulate policies more easily.[90]

In the EU, interest groups generally use a two-channel strategy for lobbying. They lobby politicians at the national level and the Commission at the European level.[91] Due to the difficulty of lobbying at the European level and specificity of concerns in terms of national sensitiveness, interest groups mostly prefer interaction

[86] De Biévre and Dür, pp. 1271–1296; Dür, pp. 27–45; Van den Hoven, Interest Group Influence; Woll, Trade Policy Lobbying, pp. 268–288.
[87] Andreas Dür and Dirk De Biévre, "Inclusion without Influence: NGOs in European Trade Policy, **Journal of Public Policy,** Vol. 27, No. 1, 2007, pp. 79–101; Erin Norma Hannah, "NGOs and the European Union: Examining the Power of Epistemes in the EC's TRIPS and Access to Medicines Negotiations", **Journal of Civil Society**, Vol. 7, No. 2, 2011, pp. 179-206; Holly Jarman, "The Other Side of the Coin: Knowledge, NGOs and EU Trade Policy", **Politics**, Vol. 28, No. 1, 2008, pp. 26–32; Alasdair R. Young and John Peterson, "The EU and the New Trade Politics", **Journal of European Public Policy**, Vol. 13, No. 6, 2006, pp. 795-814.
[88] Dür and De Biévre, pp. 79–101.
[89] Dür, pp. 27–45.
[90] Vinod K. Aggarwal and Edward Fogarty, "Between Regionalism and Globalism: European Union Interregional Trade Strategies", **EU Trade Strategies: Between Regionalism and Globalism**, (Eds. Vinod K. Aggarwal and Edward Fogarty), Palgrave Macmillan, New York, 2004, pp. 7-9.
[91] Woll, Trade Policy Lobbying, pp. 268–288.

with their governments at the national level.[92] A recent study conducted by Van Loon indicates that mobilization of interest groups to shape the preferences of their government plays a key role in initiation of EU free trade agreements. The author claims that when there is an EU-US competition in an emerging market, domestic interest groups in EU member states mobilize at the national level in order to protect their economic conditions from negative effects of a potential US free trade agreement with the market in question.[93]

Decision to lobby at the national or supranational level may also depend on sectoral distribution of economic interests. Woll's study indicates that protectionist sectors - agriculture, textiles and clothing - are mostly effective in the Council through national veto power. On the other hand, interest groups that are in favor of trade liberalization, such as those in telecommunication and financial services, have a good chance to affect the Commission.[94] This is parallel with Broscheid and Coen's claim that in order to get support and gather information, the Commission interacts regularly with those actors that have similar preferences with its own interests. Thus, it manages access to policy making in favor of some groups.[95] Similarly, Elsig argues that the business should possess some pan-European commercial interests to keep a good dialogue with the Commission.[96]

Consulting the interest groups in trade negotiations is also important for creating legitimacy for EU institutions' actions. Interest groups are able to restrict or strengthen the Commission's power in international negotiations by influencing the member states' positions towards the Commission's actions. Thus, they provide political legitimacy for EU institutions to support their positions in commercial issues.[97] Çelikkaleli and Tamer suggest that economic interest organizations play a significant role in supporting and legitimizing economic integration of the candidates or partner states with the EU. Those countries that seek to enhance their commercial

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[92] Elsig, European Union Trade Policy, p. 790.
[93] Aukje van Loon, "Domestic Politics in EU External Economic Relations: US-EU Competition in Trade", **Global Power Europe**, Vol. 1, (Eds. Astrid Boening, Jan-Frederik Kremer and Aukje van Loon), Springer-Verlag Berlin Heidelberg, 2013, pp. 219-234.
[94] Woll, Trade Policy Lobbying, pp. 268–288.
[95] Andreas Broscheid and David Coen, "Lobbying Activity and Fora Creation in the EU: Empirically Exploring the Nature of the Policy Good", **Journal of European Public Policy**, Vol. 14, No. 3, 2007, pp. 346-365.
[96] Elsig, Regulatory Venues, p. 933.
[97] Van den Hoven, Interest Group Influence.

and economic ties with the EU should encourage the active involvement of business groups in the integration process. To achieve this, the business interest groups at the national level should build good relations with the institutions and business organizations at the EU level.[98]

There are also some authors who approach doubtfully to the contribution of the business interest to EU trade policy. Gerlach lists four main problems that hinder effective contribution of Brussels-based industry associations to EU trade policy. First, they have limited number of trade policy experts. Second, they generally rely on external resources for statistical data and economic analysis. They also lack comprehensive information about members' preferences in commercial matters. The third challenge is related with decision making. Since industry associations represent a huge number of companies, decision making is unwieldy. Lastly, their members have either too diverse interests or no interest in multilateral trade policies and hence abstain from providing information to the associations.[99]

1.2.3. Realism

As realist theories mainly provide a framework for military and security studies, they are generally used to explain foreign and security policy of the EU. However, they have recently started to become prevalent in the studies of EU trade policy, either. The literature in this area mainly focuses on the development of strategic partnerships based on realist consideration of power and security. It underlines the strategic role of trade for need for balancing against newly emerging economic competitors. According to the realist reading of EU trade policy, the Union builds commercial relations as a response to the developments in the international system. The main objective of EU trade policy is to increase EU's global economic power and security. Thus, it is used to pursue the Union's strategic economic and political interests. Aggarwal and Fogarty argue that the EU's inter-regional trade

[98] Betül Çelikkaleli and Emre Tamer, "Economic Interest Representation and Democratic Legitimacy Relation in the European Union and Turkey: An Assessment for Ukraine, Georgia and Moldavia", **Istanbul Journal of Economics and Politics**, International Conference on Black Sea Countries and EU Special Vol. 1, (Ed. Oğuz Demir), 2015, pp. 66-72.
[99] Carina Gerlach, "Does Business Really Run EU Trade Policy? Observations about EU Trade Policy Lobbying", **Politics**, Vol. 26, No. 3, 2006, pp. 179-181.

negotiations are mainly shaped by geopolitical and economic factors such as the emergence of Asia as a significant economic power or the need to counterbalance the US power.[100] Zimmermann analyzes the EU's approach towards the accession of Russia and China into the WTO and concludes that the EU's position is affected by geo-economic and mercantilist concerns.[101] According to a recent study, the EU tends to conclude a free trade agreement with an emerging market when there is an EU-US competition in that market.[102] Institutionalization of commercial relations between the EU and Mercosur is also an example that indicates how growing US influence in a region affects the EU's trade policy.[103]

There are also several scholars who use realist theories to explain the EU's commercial relations with its former colonies. Farrell analyzes the relations between the EU and Africa and argues that the Cotonou Agreement, signed between two regions in 2000, serves mainly the EU's material interest and secures its continued market access in the continent.[104] Ravenhill reveals that the EU's decision to end the Lomé regime between the EU and African, Caribbean and Pacific (ACP) states was related with changing economic interests in the EU. The economic decline of the ACP states and accession of the new member states to the EU resulted in a loss of member states' interest towards the ACP states.[105] Analyzing EU's preferential trade agreements, García also asserts that the EU is mainly a rational and realist trade actor pursuing its material interests and balancing against its competitors in the international economic order.[106]

There is also a limited number of security oriented views as regards to common commercial policy. For example, Ahnlid suggests that EU trade policy is linked to the Union's concerns over security especially in its relations with southern and eastern neighborhoods.[107]

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[100] Aggarwal and Fogarty, Explaining Trends, pp. 207-240.
[101] Zimmermann, pp. 813–832.
[102] Van Loon, pp. 219-234.
[103] Faust, pp. 41-63
[104] Farrell, pp. 263–283.
[105] Ravenhill, pp. 118-147.
[106] García, pp. 521-541.
[107] Anders Ahnlid, "The Trade Do-Gooder? Linkages in EU Free Trade Agreement Negotiations", **Linking Trade and Security: The Political Economy of the Asia Pacific,** (Eds. Vinod K. Aggarwal and Kristi Govella), Springer, New York, p. 219.

1.2.4. Critical Theories

Although they are still rare in EU trade policy literature, there are also some critical explanations regarding common commercial policy. From a critical social theory perspective, Bailey and Bossuyt describe the EU trade policy as a tool for the Union to exert domination through the mechanisms of market expansion, othering the target country through promotion of norms portrayed as superiority and depoliticization of trade policy to limit the popular participation.[108] From the perspective of neo-Gramscianism and global political ecology, Ford questions conventional reading of European trade policy.[109] Most of the critical studies focus on the EU's relations with its former colonies within a political-economic framework.[110] Hurt analyzes the Cotonou Agreement between the EU and ACP states from a neo-Gramscian perspective. The agreement is described as coercive in the sense that it dictates neo-liberal principles serving to the self-interest of political elites and capitalist class within European member states.[111] Similarly, Canterbury argues that the economic partnership agreements signed between the EU and the ACP states symbolize a feature of EU bloc imperialism which has emerged as a result of the pressure by US banana multinational corporations as well as the neoliberal globalization agenda of the US political elites.[112] Sepos also claims that the EU's relations with the ACP states are mainly based on hierarchy, coercion and exploitation.[113]

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108 David Bailey and Fabienne Bossuyt, "The European Union as a Conveniently-conflicted Counterhegemon through Trade", **Journal of Contemporary European Research**, Vol. 9, No. 4, 2013, pp. 560-577.

109 Lucy Ford, "EU Trade Governance and Policy: A Critical Perspective", **Journal of Contemporary European Research**, Vol. 9, No. 4, 2013, pp. 578–596.

110 Hurt, pp. 161–176; Mark Langan, "Private Sector Development as Poverty and Strategic Discourse: PSD in the Political Economy of EU-Africa Trade Relations", **Journal of Modern African Studies**, Vol. 49, No. 1, 2011, pp. 83–113; Storey, pp. 331-346.

111 Hurt, pp. 161–176.

112 Dennis C. Canterbury, "European Bloc Imperialism", **Critical Sociology,** Vol. 35, No. 6, 2009, pp. 801-823.

113 Angelos Sepos, "Imperial Power Europe? The EU's Relations with the ACP countries", **Journal of Political Power**, Vol. 6, No. 2, 2013, pp. 261-287.

1.2.5. The EU's Actorness in International Trade and Constructivism

In EU trade policy literature, some studies touch upon the power and effectiveness of the EU as an actor in international trade. According to Meunier and Nicolaidis, the EU is a power both in and through trade. With its size, long years of experience and strength of its market, the EU is a powerful trade actor in the multilateral system. It has the ability to reinforce domestic reforms in the countries of its trading partners in return for access to EU market. By exporting its standards and norms, the EU contributes in shaping the global governance through trade.[114] Elgström investigates the perceptions of the WTO member states regarding the EU in multilateral trade negotiations and shows that the outsiders perceive the EU as a powerful actor but not as a leader due to the EU's focus on internal coordination instead of external leadership.[115] Several scholars evaluate the EU as an effective negotiator in external trade issues.[116] Some other authors point out that there are some inconsistencies in EU trade policy that influence the Union's effectiveness in commercial negotiations.[117] Meunier argues that the EU's bargaining power in international trade negotiations rises particularly in resisting demands for policy amendments when the Council acts with unanimity rather than qualified majority voting.[118] Through a discourse analysis, Van den Hoven traces the Commission's leadership role in the WTO.[119] Billiet reveals how the Commission can use the external institutional context, i.e. the WTO, to reinforce its external power.[120]

A group of studies depict the EU's actorness in multilateral trade from a constructivist point of view. For example, Siles-Brügge analyzes the EU's trade policy by focusing on the use of neoliberal ideas internalized by the actors in the DG Trade as economic discourses.[121] Comparing US and EU strategies of inter-regionalism in Latin America, Grugel explains the Union's transfer of its own

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[114] Meunier and Nicolaidis, Trade Power, pp. 209-210.

[115] Ole Elgström, "Outsiders' Perceptions of the European Union in International Trade Negotiations", **Journal of Common Market Studies**, Vol. 45, No. 4, 2007, pp. 949–967.

[116] For example, see Young.

[117] Meunier and Nicolaidis ,Conflicted Trade Power, pp. 906–925.

[118] Sophie Meunier, **Trading Voices: The European Union in International Commercial Negotiations**, Princeton University Press, Princeton, 2005, p. 3.

[119] Van Den Hoven, Assuming Leadership, pp. 256-283.

[120] Billiet, From GATT to the WTO, pp. 899–919; Billiet, Principal–agent Analysis, pp. 435–454.

[121] Siles-Brügge, The Power of Economic Ideas, pp. 597-617.

regional integration model as well as liberal principles to the region as a means of displaying its normative power globally.[122] Similarly, Santander argues that the EU's inter-regional relations with Mercosur strengthen the Union's international actorness.[123] Orbie and Khorana examine EU's trade negotiations with India by specifically focusing on the question of how market-related and cosmopolitan norms are transferred by the EU and adopted by partner countries. The authors conclude that the EU can use the commercial agreements to weaken partners' opposition and make them adhere to international social standards and multilateral procurement liberalization rules.[124]

In order to identify the external role of the EU in trade, Damro developed the 'Market Power Europe' concept. According to scholar, the EU is not a particular set of collective norms but it is essentially an internal market with institutional features that aim to externalize its market-related and regulatory policies.[125] Different from those scholars who argue that norms promoted by the EU are actually 'neoliberal'[126], Damro asserts that they are not necessarily neoliberal and are more related with the categorization of the EU as a 'regulatory state'.[127]

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[122] Grugel, pp. 603–626.
[123] Sebastian Santander, "The European Partnership with Mercosur: A Relationship Based on Strategic and Neo–liberal Principles", **Journal of European Integration**, Vol. 27, No. 3, 2005, pp. 285-306.
[124] Orbie and Khorana, Normative versus Market Power, pp. 253–264.
[125] Damro, Market Power Europe, p. 697.
[126] Bailey and Bossuyt; Storey.
[127] Damro, Market Power Europe, pp. 683, 687-688.

CHAPTER TWO
THE WORLD TRADE CONTEXT:
REGIONALISM, INTER-REGIONALISM AND DEEP REGIONAL TRADE AGREEMENTS

This chapter explains the key features of world trade to provide a general understanding of the international context within which CETA has been signed. Thus, it presents the developments in international trade system from signature of GATT onwards. The chapter starts with the definition of some relevant concepts. After giving historical evolution of the system from GATT to WTO, it specifically focuses on waves of regionalism and inter-regionalism in world trade. Then, it elaborates the roots of historical and current debates on regionalism, multilateralism and deep regional trade agreements. Lastly, the chapter presents the EU's position within the given framework.

2.1. THE CONCEPTS OF REGION, REGIONALISM AND INTER REGIONALISM

The concept of "region" derives from the Latin word for "regio" meaning direction[128] and the Latin verb "regere" which means to rule or to command.[129] It can be distinguished as microregion and macroregion. Microregion is a space between the local and national levels within a state. Macroregions are territorial units between the states and refers to the global level.[130] One classical definition of a macroregion is "a limited number of states linked together by a geographical relationship and by a degree of mutual interdependence".[131] In general, while microregions constitute a subject of the domestic politics and economics

[128] Christer Jönsson, Sven Tagil and Gunnar Törnqvist, **Organizing European Space,** Sage Publications, London, 2000, p. 15.
[129] Fredrik Söderbaum, "Consolidating Comparative Regionalism: From Euro-centrism to Global Comparison", **GARNET 2008 Annual Conference,** Sciences Po Bordeaux, University of Bordeaux 17-19 September 2008, p. 2.
[130] Söderbaum, p. 2.
[131] Joseph Nye, **Peace in Parts: Integration and Conflict in Regional Organization,** Little, Brown, Boston, 1971, p. vii.

studies, macroregions are the objects of the studies on international affairs.[132] The regions can also be classified as physical regions and functional regions. Physical regions are territorial, military and economic formations controlled mainly by states. Functional regions, on the other hand, are shaped by non-territorial factors such as market, environment, or culture. They are generally constructed by non-state actors.[133]

Regions emerge as a result of institutionalization of social practices, power relations and discourses over time. Formation of a region occurs at different spatial and historical scales. Regions are not fixed, they are subject to both deterritorialization and reterritorialization. Thus, instead of a strict definition, it would be better to conceptualize region according to the context of research.[134] Politically, to be recognized as a significant region, it is import for a region to impose actual or potential costs for those that are excluded from the regional formation. In other words, a region matters as long as it imposes significant economic and political costs for both outsiders and insiders. For the ones outside the region, this may be in the form of trade diversion or changes in the distribution of political power. For insiders, exclusion from a regional agreement may restrict autonomous policy making especially when the region organizes regional policies on crucial issues.[135]

Regionalism refers to a project or a political commitment to form a region.[136] It can be also defined as "as a policy and project whereby states and non-state actors cooperate and coordinate strategy within a given region ... to pursue and promote common goals in one or more issue areas".[137] Regionalism is generally a conscious policy and a top-down process led by states in order to manage the security-related

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[132] Söderbaum, p. 2.
[133] Raimo Väyrynen, "Regionalism: Old and New", **International Studies Review,** Vol. 5, 2003, p. 27.
[134] Anssi Paasi, "Place and Region: Looking through the Prism of Scale", **Progress in Human Geography,** Vol. 28, No. 4, 2004, pp. 542-543.
[135] Andrew Hurrell, "Explaining the Resurgence of Regionalism in World Politics", **Review of International Studies**, Vol. 21, No. 4, 1995, p. 338.
[136] Björn Hettne, "Beyond the 'New' Regionalism", **New Political Economy**, Vol. 10, No. 4, 2005, p. 545.
[137] Louise Fawcett, "Exploring Regional Domains: A Comparative History of Regionalism", **International Affairs,** Vol. 80, No. 3, 2004, p. 433.

and economic challenges outside the region.[138] The theoretical literature distinguishes the concepts of regionalism and regionalization. Unlike regionalism, regionalization is not a state-driven project, rather, it refers to emergence of new patterns for interactions between non-state actors.[139] It is a trade driven and buttom-up process of increasing interactions among especially economic actors across the regions.[140]

In order to define regionalism, Hurrell breaks up the concept into five categories: regionalization, regional awareness and identity, regional inter-state cooperation, state promoted regional economic integration and regional cohesion. Regionalization is explained as undirected processes of social and economic interaction that does not necessarily coincide with the state borders. Regional awareness and identity implies a shared belief of belonging to a particular community that is mostly defined in terms of common history, culture or religion. Regional inter-state cooperation is a process of constructing intergovernmental agreements that address a variety of issues and purposes. Regional economic integration can be considered as a sub-category of regional inter-state cooperation through which states aim to reduce or remove barriers to trade. The final and the most significant category of regionalism is regional cohesion. In order to talk about cohesion of a region, the region should play a significant role in relations between regional states and the other parts of the world and perform organizing functions in the region for policy making.[141]

Inter-regionalism, on the other hand, is most basically defined as "institutionalized relations between world regions".[142] As Söderbaum and van Langenhove argue, "there is still no consensus on the main concepts in the study of regionalism, and there is even greater disagreement in the

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[138] Heiner Hänggi, Ralf Roloff and Jürgen Rüland, "Interregionalism: A New Phenomenon in International Relations", **Interregionalism and International Relations**, (Eds. Heiner Hänggi, Ralf Roloff and Jürgen Rüland), Routledge, Oxon, 2006, p. 4.
[139] Andrew Gamble and Anthony Payne, "Conclusion: the New Regionalism", **Regionalism and World Order**, (Eds. Andrew Gamble and Anthony Payne), Macmillan, New York, 1996, p. 250.
[140] Julie Gilson, **Asia Meets Europe: Inter-Regionalism and the Asia–Europe Meeting**, Edward Elgar, Cheltenham, 2002, p. 3.
[141] Hurrell, p. 334-337.
[142] Heiner Hänggi, Ralf Roloff and Jürgen Rüland, p. 3.

conceptualisation of inter-regionalism".[143] In a broad meaning, inter-regionalism refers to a process of "widening and deepening political, economic, societal interactions between international regions".[144] Aggarwal and Fogarty have a narrower definition. The scholars define inter-regionalism as formal intergovernmental relations among regions in commercial matters.[145] According to Hettne, in order to talk about inter-regionalism, there should be a relationship between two world regions each possessing a certain level of actorship. A region's actorship is determined by the combination of its international presence, internal coherence and organized actions.[146] There are several forms of inter-regionalism classified differently depending on the definitions of the scholars. One of these forms is called as the group-to-group dialogues[147] or bi-regionalism[148]. Bi-regional relations may be between two regional organizations, between two regional groups of states or between one regional organization and one regional group.[149] The relations between regional groupings are generally conducted at the ministerial and senior officials' levels mostly on economic and commercial matters.[150] In relation to region-to-region dialogue, Aggarwal and Fogarty's categorization is more specific: if an inter-regional agreement establishes a formal link between two free trade areas or customs unions, this is defined as "pure inter-regionalism"[151]. The EU-Mercosur relations can be given as an example for pure inter-regional, bi-regional or group-to-group relations.

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143 Fredrik Söderbaum and Luk Van Langenhove, "Introduction: The EU as a Global Actor and the Role of Interregionalism", **Journal of European Integration**, Vol. 27, No. 3, 2005, p. 257.
144 Ralf Roloff, "Interregionalism in Theoretical Perspective: State of the Art", **Interregionalism and International Relations**, (Eds. Heiner Hänggi, Ralf Roloff and Jürgen Rüland), Routledge, Oxon, 2006, p. 18.
145 Aggarwal and Fogarty, Between Regionalism and Globalism, p. 1.
146 Björn Hettne, "Regional Actorship: A Comparative Approach to Interregionalism", **Intersecting Interregionalism: Regions, Global Governance and the EU,** (Eds. Francis Baert, Tiziana Scaramagli and Fredrik Söderbaum), Springer, Dordrecht, 2014, p. 60.
147 Heiner Hänggi, "Interregionalism: Empirical and Theoretical Perspectives", **Workshop: Dollars, Democracy and Trade: External Influence on Economic Integration in the Americas,** Los Angeles, CA, 18 May 2000, p. 4.
148 Jürgen Rüland, "Interregionalism and International Relations: Reanimating an Obsolescent Research Agenda?", **Intersecting Interregionalism: Regions, Global Governance and the EU,** (Eds. Francis Baert, Tiziana Scaramagli and Fredrik Söderbaum), Springer, Dordrecht, 2014, p. 16.
149 Heiner Hänggi, "Interregionalism as a Multifaceted Phenomenon: In Search of a Typology", **Interregionalism and International Relations**, (Eds. Heiner Hänggi, Ralf Roloff and Jürgen Rüland), Routledge, Oxon, 2006, p. 42.
150 Hänggi, Empirical and Theoretical Perspectives, p. 4.
151 Aggarwal and Fogarty, Between Regionalism and Globalism, p. 5.

Another form of inter-regionalism is "transregionalism". It refers to a dialogue between member states from more than two regions and the participants do not necessarily belong to a regional grouping.[152] Asia-Pacific Economic Cooperation (APEC) and Asia-Europe Meeting (ASEM) can be given as examples for this form of relationship. Similarly, Aggarwal and Fogarty define transregionalism as a relationship between states across two regions where the states do not negotiate as regional groupings. As a concept, it may also refer to any relationship among non-state actors such as transnational corporations or nongovernmental organizations across regions.[153]

Finally, "hybrid inter-regionalism" is a broad category that covers the inter-regional dialogues that are not classified as bi-regional or transregional.[154] They may be the relations between regional groupings and single states in other regions such as the EU-China, EU-US[155] or EU-Canada relationship.[156] Inter-continental forums like Africa-Europe process, "imagined inter-regionalism" defining the EU-ACP relationship as well as "inter-regionalism without regions" referring to the cooperation between India, Brazil and South Africa (IBSA) can also be examples of this category.[157] If one part of an interregional dialogue is a customs union and the other part constitutes a group of states that do not represent a customs union or free trade area, this can also be called as "hybrid inter-regionalism" (e.g., the Lome Agreement).[158]

2.2. FROM GATT TO WTO: THE ATTEMPTS FOR REGIONALISM AND MULTILATERALISM

After giving the definitions of the main concepts regarding region to region or region to state commercial relations, the efforts for institutionalization of regionalism or inter-regionalism by states can be explained thoroughly. After the Second World

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152 Hänggi, Empirical and Theoretical Perspectives, p. 6; Rüland, p. 16.
153 Aggarwal and Fogarty, Between Regionalism and Globalism, p. 5.
154 Rüland, p. 17.
155 Hänggi, Empirical and Theoretical Perspectives, p. 7.
156 This region-to-state relationship is also called as "quasi-interregionalism" (Hänggi, Interregionalism as a Multifaceted Phenomenon, p. 41).
157 Rüland, pp. 16-17.
158 Aggarwal and Fogarty, Between Regionalism and Globalism, p. 5.

War, there was an intention to create an institution to manage international trade cooperation that would complete the international economic framework composed of World Bank and the International Monetary Fund. Thus, more than fifty countries started to negotiate for establishment of an International Trade Organization (ITO) as a body of the United Nations. At the same time, fifteen countries began to communicate on reduction of customs tariffs. Their aim was hindering protectionist measures of the early 1930s and fostering trade liberalization. The first round of negotiations brought about a significant number of tariff reductions affecting one fifth of the world's total trade. Then, the number of the countries who agree on tariff concessions increased to twenty three, which became the founding members of GATT. These countries were also part of the larger group of countries negotiating the ITO Charter. Although the Charter was also agreed in March 1948, it failed to be ratified in some countries, especially when the US government declared that it would not seek congressional ratification. Thus, ITO became dead and the GATT, which was signed on 30 October 1947, became the only defining landmark of international trade cooperation for 47 years until the establishment of WTO.

GATT rules were not modified significantly for almost half a century. Some changes were introduced through trade rounds. While initial rounds mostly focused on reduction of tariffs, the Kennedy round in the 1960s resulted in an Anti-Dumping Agreement and generation of a section on development. The Tokyo Round in the 1970s introduced a new set of agreements on non-tariff barriers to trade, even though only some GATT members, especially the developed states, became party to them. The most comprehensive round was the Uruguay Round which was the last round comprising the years between 1986 and 1994. It paved the way for the establishment of WTO and a couple of new multilateral agreements.[159] WTO was formally established in 1995 by replacing GATT. While GATT was dealing only trade in goods, WTO comprises trade in goods, services and trade related intellectual property rights. It also created a strengthened body for resolution of disputes between

[159] World Trade Organization, "The GATT Years: from Havana to Marrakesh", **World Trade Organization: About WTO,** https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm, (30.12.2019)

its members. Currently, WTO has 164 members and there are sixteen multilateral trade agreements to which all of the WTO members are parties.[160]

Both for GATT and WTO, nondiscrimination ensured by Most Favored Nation (MFN) principle constitutes the core principle of multilateral trade. However, three specific conditions were defined to permit some exceptions. One significant exception is the Article XXIV (Paragraphs 4 to 10) of GATT permitting its members to form customs unions, free trade areas and interim agreements that would lead to the establishment of a customs union or a free trade area. The Article requires the agreements to cover substantially all the trade among the members of the agreement and not to increase barriers to trade against others who are not members to such agreements. During the GATT, another exemption from MFN principle was introduced for developing and least developed countries, known as “Enabling Clause” (i.e., the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries). It not only permits developed countries to give preferential treatment to the developing and least developed countries but also enables developing countries to sign RTAs among themselves which may be non-reciprocal and may not be necessarily meet the criteria identified by Article XXIV.[161] Later, during the Uruguay Round, preferential agreements were extended to also include trade in services through the Article V of the General Agreement on Trade in Services (GATS).[162]

Being different from WTO, GATT lacked a standing body to evaluate the compatibility of any form of regional trade bloc with the agreement. For example, EEC’s association agreements signed with third countries were subject to intense debates during the Dillon Round. The main point of discussions was the uncertainty about whether the agreements aimed full liberalization or membership to the EEC. Establishment of European Free Trade Agreement (EFTA) also raised concerns as it excluded agriculture and fisheries. These kinds of controversial agreements were

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160 World Trade Organization, “Overview”, **World Trade Organization: About WTO,** https://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm, (30.12.2019).

161 World Trade Organization, **World Trade Report 2011**, WTO Publications, Geneva, 2011, https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report11_e.pdf, (02.11.2019), p.184.

162 For more information on regional integration models, see Canan Balkır, **Uluslararası Ekonomik Bütünleşme: Kuram, Politika ve Uygulama AB ve Dünya Örnekleri**, İstanbul Bilgi Üniversitesi Yayınları, İstanbul, 2010.

reviewed by individual working parties. Preferential trade agreements were also subject to discussions. In 1983, an independent research group was established by the Director-General of the GATT to examine problems related with multilateral trade. Two years later, the group published “Leutwiler Report” stating that exemptions to the MFN principle were abused, thus the rules allowing customs unions and free trade areas should be identified in a clearer way and be applied more strictly.

It was after the establishment of WTO, when a committee on RTAs was founded. Despite this concrete step, there was not a single examination of a regional trade agreement between 1996 and 2001. This was mainly related with the lack of information provided by the parties and ongoing discussions on the ambiguity of Article XXIV.[163] In 2001, a declaration was issued as a result of WTO Ministerial Conference in Doha that mandated Committee on Trade and Development to review special and differential treatment provisions.[164] A more concrete step was taken with the adoption of a new transparency mechanism for RTAs in 2006 that require member states to announce initiation of negotiations for a regional trade agreement, notify a newly concluded one and determine a schedule for consideration of the notified agreement by WTO members.[165] However, some problems continue regarding the assessment of RTAs such as the ambiguities related with the definition of “substantially all trade” and timing of notification.[166]

As it can be observed, establishment of a multilateral trade system did not decrease the motivation of the countries to form bilateral or regional commercial alliances. Especially with the conclusion of the Uruguay Round, the number of RTAs has proliferated considerably since the multilateral negotiations did not bring concrete results and existing multilateral rules have become insufficient to manage extensively growing trade and investment links among countries. The GATT was no longer relevant to the realities of the world trade in late 1980s and early 1990s as it

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[163] World Trade Organization, World Trade Report 2011, pp. 183-185.

[164] World Trade Organization, “Special and differential treatment provisions”, **World Trade Organization: Trade Topics,** https://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm, (02.11.2019).

[165] World Trade Organization, World Trade Report 2011, p. 185.

[166] Brock R. Williams, “Bilateral and Regional Trade Agreements: Issues for Congress”, **Congressional Research Service**, 17.05.2018, https://fas.org/sgp/crs/row/R45198.pdf, (12.11.2019), p. 8.

was 40 years ago. Thus, countries began to prefer to create their own safety networks by establishing or joining regional trade groups. Today, all countries are party to at least one regional trade agreement. Most of them are members of two or more regional or inter-regional trade deals. Over time, the geographic definition of 'regional' has also changed due to the proliferation of RTAs not only within the same region but also across the regions. The countries or regional blocs have started to create trade partnership beyond oceans.[167]

2.3. THE WAVES OF REGIONALISM AND INTER-REGIONALISM

The birth of regionalism as a policy corresponds to the post World War II period when negotiations were also ongoing for establishment of GATT as a forum for multilateral trade cooperation. The literature identifies mainly two waves of regionalism: old regionalism and new regionalism. The first one corresponds to the period starting with the end of the Second World War to the mid-1970s.[168] In the context of the Cold War, the first generation was introverted and had narrow objectives related with trade and security issues.[169] In this period, regionalism projects were in line with the American hegemony in the international system and its multilateral vision.[170] Trade blocs, which were established geographically, mainly focused on the liberalization of trade within the internal borders. Many of them were trade diverting and limited in terms of external orientation.[171] During this period, GATT membership and the process of tariff liberalization accelerated first with the Dillon Round (1960-61) and then with the Kennedy Round (1964-1967). The most

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[167] Antoni Estevadeordal, Kati Suominen and Robert Teh, "Introduction", **Regional Rules in the Global Trading System,** (Eds. Antoni Estevadeordal, Kati Suominen and Robert Teh), Cambridge University Press, Cambridge, 2009, https://www.wto.org/english/res_e/booksp_e/region_rules09_e.pdf, (17.11.2019), p. 1.

[168] Being different from this general categorization, Telò identifies the inter-war period as another wave of regionalism which is characterized by the shift from open trade to state protectionism as well as German and Japanese attempts for being regional hegemonies (Mario Telò, "Introduction: Globalization, New Regionalism and the Role of the European Union", **European Union and New Regionalism,** Second Edition, (Ed. Mario Telò), Ashgate Publishing, Hampshire, 2013, p. 2).

[169] Söderbaum and Van Langenhove, p. 254.
Söderbaum and Van Langenhove prefer to use the word 'generation' instead of 'wave' in order to avoid the strict division of old and new regionalism.

[170] Telò, p. 3.

[171] Pavel Hnát, "Globalization, Multilateralism, Regionalism: from Dilemma to Multi-dimensionality", **Acta Oeconomica Pragensia**, Vol. 16, No. 1, 2008, p. 10.

prominent example of the period was the establishment of EEC in 1957. The rules and standards of the common commercial policy set by the EEC were in line with the international regulations of the GATT.[172] Following EEC, EFTA was established in Europe. Regionalism process was also observed in other parts of the world. Developing and least-developed countries in Africa, Latin America and Asia initiated some sort of regional integration models.[173]

Parallel with the state-central nature of old regionalism, old inter-regional relations were characterized as intergovernmental. The emergence of old inter-regionalism was marked by Yaounde Agreement (signed in 1963) between the European Community (EC) and the Associated African States and Madagascar. As the EC was the most advanced regional organization and there were no formal inter-regional dialogues among other regions in the world, the inter-regional relations of this period were centered on the EC creating a "hub-and-spokes" system.[174]

The second wave of regionalism is more comprehensive and complex than the first one. It started to emerge in the mid-1980s in the context of the end of the Cold War bipolarity. Widening and deepening of European integration resulted in several concerns about a potential decline in the Community's willingness for multilateral negotiations and regarding openness of the European market to trade from third countries. This led US to transform its previous role as a supporter of multilateralism to a negotiator of regional trade agreements.[175] Moreover, in this period, beginning of globalization triggered structural transformation of the political power from state to the subnational and supranational levels. Due to the effects of globalization, new regionalism was driven more by markets than by policies. Unlike the first generation of regionalism, this generation is extroverted and open to all countries including the weaker ones.[176] It appeals to both developed and developing

[172] İlke Göçmen, "Hukuki Boyutuyla Avrupa Birliği'nin Ortak Ticaret Politikası", **Hukuki, Siyasi ve İktisadi Yönleriyle Avrupa Bütünleşmesinde Son Gelişmeler ve Türkiye-AB İlişkileri**, (Eds. Sanem Baykal, Sinem Akgül Açıkmeşe, Belgin Akçay and Çağrı Erhan), Ankara Üniversitesi Yayınları, Ankara, 2018, p. 94.
[173] Murat Can Genç and Metin Berber, "Bölgeselleşme ve Ticaret Akımları: Literatür İncelemesi", **Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi**, Vol. 22, 2011, pp. 84-110.
[174] Hänggi, Empirical and Theoretical Perspectives, p. 4.
[175] Yıldız Tuğba Kurtuluş Kara, **Dünya Ticaret Örgütü ve Bölgesel Ticaret Anlaşmaları İlişkisi: Sorunlar, Çözümler ve Türkiye'ye Yansımaları**, (Unpublished Doctoral Thesis), Ankara Üniversitesi, Sosyal Bilimler Enstitüsü, Ankara, 2012, pp. 37-38.
[176] Söderbaum and Van Langenhove, p. 256.

states through the shift from non-reciprocal trade preferences to the reciprocal free trade agreements.

Thus, the new regionalism is geographically more diverse and can be regarded as a global phenomenon. Inter-regional relations are mainly conducted within the Triad - North America, Europe and Asia. In the new 'open' regional formations, the EU continued to be a primary actor; however, other hubs like Association of Southeast Asian Nations (ASEAN) and Mercosur have started to emerge establishing their own group-to-group dialogues.[177] Hence, the architecture of the new inter-regionalism has transformed from an actor-centered (mainly the EU-centered) basis to a system-centered basis.[178] Various regional integration models emerged in America, Asia and in the southern part of Africa, with different forms and power configurations. The period of new regionalism coincided with the Uruguay Round of multilateral negotiations (1986-1994) when new issues in the trade agenda began to be discussed for the first time both at the regional and multilateral levels. Thus, regional trade blocs and inter-regional agreements started to be characterized by a more complex and comprehensive scope of economic liberalization including movement of services, capital and workers, public procurement, intellectual property rights etc.[179] Moreover, the arrangements began to address not only economic matters but also non-economic issues such as justice, labor, environment and culture.

Although their defining characteristics are different, there is continuity between old regionalism and new regionalism; the regional organizations formed in 1950s and 1960s were transformed through getting a new name, participation of new members or adding new issues into their agenda. Söderbaum and Van Langenhove argue that now we are experiencing early stages of a "third-generation regionalism" that is more external-orientated and more proactive in terms of affecting global governance as compared to the previous generations.[180] Hence, 21th century regionalism is different than 20th century regionalism, defined by diverse political

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[177] Söderbaum and Van Langenhove, p. 257.
[178] Mathew Doidge, "Interregionalism and the European Union: Conceptualising Group-to-Group Relations", **Intersecting Interregionalism: Regions, Global Governance and the EU,** (Eds. Francis Baert, Tiziana Scaramagli and Fredrik Söderbaum), Springer, Dordrecht, 2014, p. 41.
[179] Hnát, pp. 11, 12.
[180] Söderbaum and Van Langenhove, p. 257.

economic features. Liberalization requirements are not only applicable at the borders but also permeated beyond the borders. Rather than reciprocal market access and liberalization of tariffs, 21st century regionalism is more about regulation and domestic reforms.[181] Competition, movement of capital, intellectual property rights and investment became the main issues that are considered as new barriers to international trade. Other than states, multinational corporations were placed at the center of global economy. They have begun to spread their production and technology from technologically advanced countries to the developing countries in order to lower their costs related with production or other facilities. Besides, they want their foreign investments to be legally protected and their products to be certified for different markets. On the other hand, developing countries are welcoming multinational corporations on the ground that they may trigger industrialization and economic growth in their own countries. Thus, deep and comprehensive RTAs began to proliferate to help foreign firms connect their factories internationally. Deepening of legally enforceable provisions that go beyond the WTO commitments became a common pattern in recent RTAs.[182]

2.4. DEBATES ON REGIONALISM, MULTILATERALISM AND DEEP REGIONAL TRADE AGREEMENTS

The discussions of the previous generations of regionalism were based on whether RTAs were building or stumbling blocks to multilateral trade liberalization. The ones holding the view that regionalism is a complementary step towards multilateralism, was arguing that regional trade liberalization prepares states and companies for an open world trade system, thus serving for the acceleration of multilateral trade negotiations. In contrast, others were claiming that regional arrangements emerge as a reaction to globalization, hence they slow down and threaten multilateral trade liberalization.[183] Today, these discussions are off the

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[181] Richard Baldwin, "21st Century Regionalism: Filling the Gap between 21st Century Trade and 20th Century Trade Rules", **WTO Staff Working Paper**, No. ERSD-2011-08, 2011, p. 3.
[182] Baldwin, pp. 10-11.
[183] Jagdish Bhagwati and Arvind Panagariya, "Preferential Trading Areas and Multilateralism: Stranger, Friends or Foes?", **The Economics of Preferential Trade Arrangemets,** (Eds. Jagdish Bhagwati and Arvind Panagariya), The AEI Press, Washington DC., 1996.

agenda given that international trade liberalization has been realized with an unexpected speed in the 21th century. However, an alternative discussion is focused on the threat of 21th century regionalism on the WTO's role as a rule setter. Being different than basic WTO principals that are negotiated multilaterally and accepted almost universally, new trade norms are decided through regional or bilateral deals among developed countries or through agreements between developed countries and emerging powers.[184] The "building or stumbling blocks" debate was replaced by new concerns whether regionally or inter-regionally accepted measures are consistent and can be enforced universally. Since many countries are signing trade agreements among themselves, same countries can become parties to more than one regional trade agreement. That creates a "spaghetti bowl effect", defining the complex context of overlapping RTAs.[185] Whether this may serve for multilateralization of regionalism has become a new question. This part of the discussions is significant since new generation of trade agreements are becoming increasingly deeper and their commitments are going beyond the WTO provisions, called as WTO-plus or WTO-extra provisions. WTO-plus commitments are building upon the current multilateral provisions by adding further commitments. For example, some countries that commit to a certain upper limit for their import tariffs through WTO lower tariffs further through RTAs to only several members. WTO-extra provisions, on the other hand, are outside the scope of WTO but included in RTAs such as labor and environmental provisions.[186] Competition policy, investment, movement of capital and intellectual property rights are the most often covered WTO-extra fields in preferential trade agreements signed between 1958 and 2015.[187] A full categorization of WTO-plus and WTO-extra provisions can be seen at Figure 1.

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[184] Baldwin, p. 30.
[185] The term was first used by Jagdish Bhagwati (Jagdish Bhagwati, "US Trade policy: The Infatuation with Free Trade Agreements", **Discussion Paper Series**, No. 726, 1995, p. 4.).
[186] Chad P. Bown, "Mega Regional Trade Agreements and the Future of the WTO", **Discussion Paper Series on Global and Regional Governance**, 2016, p. 2.
[187] Claudia Hofmann, Alberto Osnago and Michele Ruta, "Horizontal Depth: A New Database on the Content of Preferential Trade Agreements", **World Bank Policy Research Working Paper**, No. 7981, 2017, p. 11.

Figure 1: Categorization of WTO-plus and WTO-extra Policy Areas

WTO-plus	WTO-extra	
Tariffs industrial goods	Anti-corruption	Health
Tariffs agricultural goods	Competition policy	Human Rights
Customs administration	Environmental laws	Illegal immigration
Export taxes	IPR	Illicit drugs
SPS measures	Investment measures	Industrial cooperation
State trading enterprises	Labour market regulation	Information society
TBT measures	Movement of capital	Mining
Countervailing measures	Consumer protection	Money laundering
Anti-dumping	Data protection	Nuclear safety
State aid	Agriculture	Political dialogue
Public procurement	Approximation of legislation	Public administration
TRIMS measures	Audiovisual	Regional cooperation
GATS	Civil protection	Research and technology
TRIPS	Innovation policies	SMEs
	Cultural cooperation	Social Matters
	Economic policy dialogue	Statistics
	Education and training	Taxation
	Energy	Terrorism
	Financial assistance	Visa and asylum

Source: Hofmann, Osnago and Ruta, p. 6.

There is a diversity of views on whether RTAs are "multilateral-friendly" or not. Some part of the arguments focuses on the differences of EU and US approaches towards regionalism. Preferential agreements conducted both by the EU and US separately with other countries include a significant number of WTO-plus and WTO-extra provisions. Most of the WTO-extra provisions concern regulatory issues that had been attempted to be covered under WTO rules by the EU and US earlier in multilateral negotiations against the wishes of developing countries. However, as this attempt failed, the two hubs started to apply their own regulatory approaches through regional means.[188] Thus, these practices may cause significant differences in the scope and extent of liberalization in RTAs. Nevertheless, a recent study has found a high degree of homogeneity in WTO-plus and WTO-extra measures across a

[188] Henrik Horn, Petros C. Mavroidis and André Sapir, "Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements", **Bruegel Blueprint Series**, Vol. 7, 2009, pp. 42-43.

considerable amount of RTAs negotiated both by the same trading partner and across different partners.[189]

Another side of debates is related with the economic effects of RTAs. The discussion whether RTAs result in trade creation or trade diversion goes back to early 1950s. It was first examined by Viner[190] in a context where trade agreements were defined as "shallow"[191] based solely on bilateral tariff liberalization. Shallow agreements are discriminatory in nature since trade barriers faced by members and non-members of a regional agreement differ from each other. Decreasing trade barriers among members may result in trade creation by replacing higher cost domestic production with a lower cost producer inside the region. This paves the way for reduction of the prices of goods that are available for more consumers. However, at the same time, it could lead to trade diversion since the low cost producer outside the agreement is replaced by higher cost producer among the members. In other words, trade is diverted from a more efficient producer to a less efficient one. The application of this logic to deep trade agreements covering behind-the-border policy issues is controversial. A recent research reveals that deep agreements results in more trade creation and less trade diversion than shallow agreements. Although tariff preferences continue to be trade diverting, the overall effect of these agreements on trade with non-members may be even positive when they are designed or implemented in a non-discriminatory way.[192]

Besides scholarly debates, trade policy issues have also begun to provoke attention of European public in recent years. Negotiations of deep free trade agreements triggered a wide range of public protests on streets and signature of online petitions to stop them. The first example of intense public mobilizations towards a 21st century trade agreement was observed during the negotiations of the Anti-Counterfeiting Trade Agreement (ACTA). ACTA was a multilateral agreement

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[189] Iza Lejárraga, "Deep Provisions in Regional Trade Agreements: How Multilateral-friendly?: An Overview of OECD Findings", **OECD Trade Policy Papers**, No. 168, 2014, p. 5.
[190] Jacob Viner, **The Customs Union Issue**, Carnegie Endowment for International Peace, New York, 1950.
[191] The terms "shallow" and "deep" trade agreements were first defined by Lawrence (Robert Z. Lawrence, **Regionalism, Multilateralism, and Deeper Integration**, Brookings Institution Press, Washington, DC, 1996.).
[192] Aaditya Mattoo, Alen Mulabdic and Michele Ruta, "Trade Creation and Trade Diversion in Deep Agreements", **World Bank Policy Research Working Paper,** No. 8206, 2017, p. 31.

on enforcement of intellectual property rights. The EU and its 22 member states signed it in 2012. However, the agreement started to be criticized by European citizens and non-governmental interest groups on the ground that it could harm the fundamental rights including freedom of expression and privacy. Anti-ACTA campaigns took place in the form of street protests and collection of almost three million signatures through online petition. The campaign became successful and the European Parliament did not give its consent to the agreement, hence ACTA failed to be ratified.

Anti-ACTA protests were followed by another massive public mobilization across Europe, this time against Transatlantic Trade and Investment Partnership (TTIP) negotiations.[193] Besides organization of street protests, nearly three and a half million signatures were collected for the 'Stop TTIP' European Citizens' Initiative.[194] Opponents to the TTIP were mainly concerned about the secrecy of the negotiations, the agreement's negative impacts on environmental and food standards and potential job losses. The protesters mostly gathered in Germany and Austria, the former being the center of the demonstrations.[195] Besides TTIP, the EU's trade agreements with emerging countries also led to discussions, especially among civil society organizations. For example, Foodwatch and Power Shift analyzed potential risks related with EU's free trade agreements negotiated with Japan, Vietnam, Indonesia, Mexico and Mercosur. They pointed out that although these agreements did not attract as much public attention as TTIP and CETA, they have similar

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[193] TTIP negotiations between the EU and US started in June 2013 and were suspended in January 2017 with the election of Donald Trump as the US President.
Anti-TTIP public actions also covered the opposition against simultaneous CETA negotiations that is elaborated separately in the dissertation.

[194] European Citizens' Initiative (ECI) is a participatory democracy instrument enabling European citizens to propose legal amendments in any area where the Commission has legislative power. If the initiative is signed by one million EU citizens from at least seven different member states, the Commission has to decide formally whether or not it will follow the request by explaining the reasons for accepting or rejecting. For more information on ECI, see European Union, "European Citizens' Initiative", https://europa.eu/citizens-initiative/home_en, (15.12.2019).

[195] Sophie Meunier and Rozalie Czesana, "From Back Rooms to the Street? A Research Agenda for Explaining Variation in the Public Salience of Trade Policy-making in Europe", **Journal of European Public Policy**, 2019, p. 6.

regulatory provisions which may undermine environment, consumer rights and public health.[196]

2.5. THE EU'S APPROACH TOWARDS REGIONAL TRADE AGREEMENTS AND MULTILATERALISM

The EU's main priority is liberalization of trade through multilateral negotiations held at World Trade Organization. However, due to the deadlock in Doha Round of multilateral negotiations, the EU started to focus relatively more on bilateral and regional trade agreements.[197] According to the RTAs Database of WTO, the EU has 43 RTAs currently in force (see Figure 2). In terms of composition, the agreements are classified as bilateral (two signatories) like in the case of EU - Chile agreement or as plurilateral (three or more signatories) such as EU - CARIFORUM States economic partnership agreement. Some of the RTAs are cross-regional. For example EU - Korea and EU - Japan free trade and economic integration agreements are defined as cross-regional agreements as they are composed of two regions-Europe and East Asia. There are also several agreements that cover more than two regions. EU-Overseas Countries and Territories free trade agreement is an example for this, comprising Caribbean, Europe, North America, Africa, South America and Oceania.

[196] Alessa Hartmann and Thomas Fritz, "Trade at any Cost?", **PowerShift**, 2018, https://www.foodwatch.org/en/campaigns/free-trade-agreements/report-trade-at-any-cost/, (02.04.2019), p. 55.
[197] "Ortak Ticaret Politikası", **İktisadi Kalkınma Vakfı**, 2010, https://www.ikv.org.tr/ikv.asp?ust_id=31&id=245, (25.02.2019).

Figure 2: The EU's Regional Trade Agreements

The EU's Regional Trade Agreements	
EU - Albania	EU - Jordan
EU - Algeria	EU - Korea, Republic of
EU - Andorra	EU - Lebanon
EU - Armenia	EU - Mexico
EU - Bosnia and Herzegovina	EU - Moldova, Republic of
EU - Cameroon	EU - Montenegro
EU - Canada	EU - Morocco
EU - CARIFORUM States EPA	EU - North Macedonia
EU - Central America	EU - Norway
EU - Chile	EU - Overseas Countries and Territories (OCT)
EU - Colombia and Peru	EU - Palestinian Authority
EU - Colombia and Peru - Accession of Ecuador	EU - Papua New Guinea / Fiji
EU - Côte d'Ivoire	EU - SADC
EU - Eastern and Southern Africa States Interim EPA	EU - San Marino
EU - Egypt	EU - Serbia
EU - Faroe Islands	EU - South Africa
EU - Georgia	EU - Switzerland – Liechtenstein
EU - Ghana	EU - Syria
EU - Iceland	EU - Tunisia
EU - Israel	EU - Turkey
EU - Japan	EU - Ukraine
	European Economic Area (EEA)

Source: "Regional Trade Agreements Database", WTO OMC, 27.01.2020, https://rtais.wto.org/UI/PublicSearchByCrResult.aspx, (28.01.2020).

Of these RTAs, while 24 cover goods, two agreements- EU-Armenia Economic Integration Agreement and European Economic Area- comprise services. 17 agreements were notified as covering both goods and services. In terms of type, three of them are customs union (EU - Andorra, EU - San Marino and EU - Turkey) and 21 are free trade agreements. Two of the agreements, EU - Armenia and European Economic Area, are classified as economic integration agreements. 17 agreements are identified as both free trade and economic integration agreements.[198]

The EU classifies its international trade agreements in four groups based on their content and objectives. The first group is labelled as 'first generation trade agreements' corresponding to pre-2006 period. The main objective of this category

[198] Definitions of a free trade area, customs union and economic integration agreement can be found in Paragraph 8(b) of Article XXIV of GATT 1994, in Paragraph 8(a) of Article XXIV of GATT 1994 and in Article V of GATS, respectively.

of agreements is tariff liberalization. The second group, called as 'new generation agreements', such as EU - South Korea free trade agreement or CETA, refers to more recent agreements with broader objectives. Besides liberalization of tariffs in trade in goods, they include commitments on services, investment, competition, intellectual property and regulatory issues. By comprising provisions on trade and sustainable development, they intend to create value-based trade regimes with trading partners. The third category is composed of 'Deep and Comprehensive Free Trade Areas' (DCFTAs), established with neighbor countries; Georgia, Moldova and Ukraine. The most significant objectives of DCFTAs are deepening economic relations among the trading partners as well as approximation of the legislations of neighbor countries to the EU law, specifically in trade policy issues. The last group comprises Economic Partnership Agreements with ACP States, mostly covering trade in goods and development objectives.[199]

In the first generation of agreements, the EU's primary concern was not directly economic. A vast array of agreements was signed with neighboring countries for security, geo-political and enlargement purposes. The main motivation of the EU to conclude regional agreements with North African, Middle Eastern, Mediterranean and Balkan countries was to secure political and economic stability in its neighborhood. Europe Agreements were made within the political context of post-Cold War to prepare Central and Eastern European countries for EU membership. The agreements signed with the ACP states, on the other hand, were designed to promote development in its former colonies, as stated by the EU. In this period, there were also some economically or commercially driven RTAs. These attempts, like EU - Mexico and EU - Central America trade agreement initiatives, generally followed the agreements negotiated by the US in order to prevent trade diversion effects in favor of the US. Yet another motivation for RTAs of the period was establishing strategic links with the emerging markets in South East Asia and India for future considerations.[200]

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[199] The Economic Partnership Agreement with the Caribbean covers provisions on services and investment, as well (European Commission, "2019 Report on Implementation of EU Free Trade Agreements", **Trade,** 2019, https://trade.ec.europa.eu/doclib/docs/2019/october/tradoc_158387.pdf, (05.01.2020), p. 6).

[200] Stephen Woolcock, "European Union Policy towards Free Trade Agreements", **ECIPE Working Paper**, No. 03/2007, 2007, p. 4.

The EU's shift from the first generation to the new generation of trade agreements is related with the global economic developments in early 2000s. The establishment of WTO in 1995 raised expectations for effective functioning of global trade system that led the EU to focus on WTO negotiations instead of expanding its bilateral trade links in late 1990s. However, multilateral negotiations failed to meet the expectations. Due to the oppositions coming from developing countries, ministerial talks in Cancún were collapsed in 2003 which was followed by exclusion of 'Singapore issues'[201] from the Doha Development Agenda. As the multilateral negotiations in Doha were also suspended and the US began to accelerate its own bilateral negotiations with its trading partners, the EU decided to pursue an active trade policy through creating deep bilateral free trade agreements, designed mainly for economic purposes and comprising the issues that failed in multilateral negotiations.[202] With its communication of "Global Europe" in 2006, the European Commission declared that free trade agreements can foster openness and liberalization by presenting solutions to the problems that are difficult to handle in multilateral negotiations. The then Trade Commissioner of the EU, Pascal Lamy, who was previously supporting WTO-led multilateralism and rejecting RTAs as an alternative to WTO, himself asserted that WTO could or should not stay as an only method of governance within the context of globalization.[203]

Although construction of a trade network through RTAs continues to constitute the basis of its current trade policy, the EU admits the WTO's role in ensuring open and fair global trade and its role as ultimate rule setter in multilateral trade system. The EU continues to be a part of the multilateral and plurilateral negotiations for some sectoral agreements such as Information Technology Agreement, Trade in Services Agreement and the Environmental Goods Agreement. However, it also admits that WTO is not able to address today's problems

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[201] Singapore issues are investment, competition, transparency in government procurement and trade facilitation. In 2004, WTO members agreed on beginning of negotiations in trade facilitation and Trade Facilitation Agreement entered into force in 2017.

[202] Sevil Acar and Mahmut Tekçe, "Multilateralism or Bilateralism: Trade Policy of the EU in the Age of Free Trade Agreements", **International Conference on Emerging Economic Issues in a Globalizing World**, İzmir, 2008, p. 280.

[203] M. Sait Akman, "The European Union's Trade Strategy and its Reflections on Turkey: an Evaluation from the Perspective of Free Trade Agreements", **Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Dergisi**, Vol. 12, No. 2, 2010, pp. 22-23.

sufficiently. Therefore, it makes an effort for reformation of WTO-rules. In September 2018, the EU presented a comprehensive approach for resolution of WTO's problems related with its negotiation, monitoring and dispute settlement mechanisms. Two months later, together with other members, it proposed amendments for appointment of new judges in Appellate Body that is currently blocked. Another official proposal was put forward as regards to WTO rules on transparency and notification of the member states related with their actions which may affect trade. [204]

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[204] European Commission, "Creating Opportunities, Standing Up for Europe's Values and Interests: EU Trade Policy at Work", **Trade**, 2019, https://op.europa.eu/en/publication-detail/-/publication/ff7a42a0-8740-11e9-9f05-01aa75ed71a1/language-en/format-PDF/source-105930560, (15.12.2019), p. 8.

CHAPTER THREE
CETA:
KEY FEAUTURES, BACKGROUND OF NEGOTIATIONS AND CONTROVERSIAL ISSUES

Based on the given framework in the previous chapter, CETA is one of the new generation trade agreements of the EU with broad objectives and value-based commitments. According to the RTAs database of WTO, the agreement is classified as bilateral since it is composed of two signatories - Canada and EU - and at the same time cross-regional as it comprises two different regions - Europe and North America. CETA can also be characterized as a hybrid inter-regional agreement because it was signed by a regional grouping and a single state in another region.

This chapter presents a detailed description of CETA and explains how the agreement was negotiated, signed and concluded. The chapter starts with brief information on EU - Canada commercial relations and goes on with explanation of the scope and objectives of CETA. It is followed by presentation of historical background of the negotiations and the current status of the agreement. The chapter then elaborates the positions of the European Parliament and member states in CETA process, specifically examines the most controversial issues and explains public reactions to CETA.

3.1. KEY STATISTICS, SCOPE AND OBJECTIVES

Canada is a significant trade partner of the EU. According to the 2018 statistics on international trade in goods, the value of trade between the EU and Canada amounted to € 72.3 billion; € 41 billion corresponding to EU exports to Canada and € 31 billion EU imports from Canada. While Canada is the EU's 10th biggest trading partner, the EU is second largest trading partner of Canada. Among the member states, the United Kingdom was the largest importer of goods from Canada, whereas Germany was the main exporter.[205] The main traded goods between

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[205] European Commission, "Canada-EU Trade in Goods: €10 Billion Surplus", **Eurostat**, 18.06.2019, https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/DDN-20190618-1, (17.12.2019).

Canada and the EU are machinery, chemical and pharmaceutical products and transport equipment. In terms of trade in services, the value of trade between the two parties was €34.9 billion in 2017. The most frequently traded services are transport, travel, insurance and communications. On the other hand, the total value of foreign direct investment between the EU and Canada amounted to €597.8 billion in 2017.[206]

CETA is the EU's first comprehensive economic and trade agreement signed with a highly industrialized country and at the same time it was declared as the most progressive and ambitious trade deal that the Union has ever concluded.[207] It removes almost all of the tariffs between the EU and Canada, regulates services as well as the investment. The agreement covers a variety of subjects under thirty chapters. Some of these subjects can be listed as:

- sanitary and phytosanitary measures covering food safety, animal and plant health
- temporary entry and stay of natural persons for business purposes
- mutual recognition of professional qualifications
- competition policy
- government procurement specifying the fields where the EU and Canada can provide goods and services to each other's governments at the national, regional, provincial and local levels
- intellectual property including copyrights, trademarks, geographical indications, designs and patents
- trade and sustainable development
- trade and labor
- trade and environment[208]

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[206] European Commission, "Countries and Regions", **Trade Policy,** 01.08.2019, https://ec.europa.eu/trade/policy/countries-and-regions/countries/canada/, (10.09.2019).

[207] European Parliament, "Negotiations on the EU-Canada Comprehensive Economic and Trade Agreement (CETA) Concluded", **Directorate-General for External Policies Policy Department**, 10.2014, http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536410/EXPO_IDA(2014)536410_EN.pdf, (18.10.2019).

[208] European Commission, "CETA Chapter by Chapter", **Trade Policy,** 24.08.2019, https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/, (10.09.2019).

The main objectives of CETA are listed by the EU as follow:

- removal of custom duties
- making EU companies more competitive in Canadian market
- making the conditions easy for EU companies to bid for Canadian public contracts
- liberalization of trade in services
- market access for European food and drink companies
- protection of intellectual property rights including geographical indications
- reducing costs of exporters while at the same time improving standards
- benefiting consumers
- benefiting Small and Medium-sized Enterprises (SMEs)
- mutual recognition of qualifications and making it easier for EU professionals to work in Canada
- facilitating investment conditions and ensuring an effective and transparent dispute settlement mechanism
- supporting creative and innovative industries as well as artists
- supporting social and environmental rights[209]

3.2. BACKGROUND AND STATE OF PLAY

The history of EU - Canada economic relations dates back to the Framework Agreement for Commercial and Economic Cooperation signed between the European Communities and Canada in 1976. It was the first formal agreement between the EU and a highly industrialized state aiming to improve and diversify commercial and economic cooperation among two parties. This was followed by a couple of agreements on a large-scale of economic issues ranging from atomic energy to fisheries and veterinary issues. They also concluded a customs cooperation agreement in 1998. In order to enhance cooperation in those fields that are beyond traditional market access areas such as investment, intellectual property rights and financial services, EU and Canada agreed on the scope and objectives of a Canada-

[209] European Commission, "CETA Explained", **Trade Policy**, 21.09.2017, https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-explained/#do, (11.09.2019).

EU Trade and Investment Enhancement Agreement (TIEA) in 2004. Negotiations for TIEA lasted until 2006. Although the negotiation process did not result in an agreement, it paved the way for framing a much broader agreement, i.e., CETA.

Prior to the start of negotiations for CETA, the EU and Canada examined jointly the costs and benefits of a comprehensive economic integration agreement. The study, which was conducted in 2008, estimated real income gains on both sides. It was followed by Canada-EU joint scoping exercise to define the scope of the agreement and to identify the significant points for its conclusion. In addition, the Commission consulted the public through a web-based questionnaire in February and March 2008 as guidance for the negotiations. The response of the public was generally positive, supporting a closer economic partnership with Canada. The Commission also commissioned the work on impact assessment through a range of consultation methods which paved the way for the Sustainability Impact Assessment report published by the Commission in 2011. The report presented an assessment of potential economic, social and environmental effects of CETA both on EU and Canada.

In order for the Commission to officially begin negotiations, it recommended draft negotiating directives to the Council. The negotiating directives were adopted by the Council in April 2009. Negotiations between Canada and EU for CETA started at the EU-Canada Summit in Prague on 6 May 2009 and concluded in Ottawa on 26 September 2014. On the same day of conclusion of negotiations, the text of the agreement was opened to the public scrutiny. In July 2016, European Commission formally proposed signature, provisional application and conclusion of the agreement to the Council. In October 2016, the Council adopted decision to sign CETA and the agreement was signed between Canada and the EU on 30 October 2016. Then, the Council forwarded CETA to the European Parliament for its conclusion. Finally, the Parliament gave its consent to CETA on 15 February 2017.

In the earlier stages, the decision on whether CETA falls under exclusive competence of the Commission or it would also touch upon the member states' competences, remained uncertain. The Commission was viewing CETA legally as an EU-only deal. Thus, Commission President Jean-Claude Juncker intended to propose a simple approval procedure for CETA so that ratification by national parliaments would not be required. However, member states were sharing the view that CETA is a mixed agreement. In 2014, the German Federal Ministry of Economics published its legal opinion calling for a declaration of CETA as a mixed agreement. In the same year, a majority of the national parliaments wrote a letter to then EU Trade Commissioner Karel De Gucht to call for consideration of CETA as a mixed agreement, either.[210] Moreover, both German Chancellor Angela Merkel and French President François Hollande clearly stated that they were in favor of the involvement of the national parliaments. Hence, the Commission proposed CETA to the Council as a mixed agreement including areas that are both under the EU and member states competences. Thus, to be fully applicable, the agreement must be ratified by all of the member states according to their constitutional requirements, and in the case of Belgium, it has to be ratified also by its regional and community parliaments. In accordance with Article 218(5) of TFEU that enables mixed agreements to be provisionally applied without waiting for the completion of ratification process, CETA has provisionally entered into force on 21 September 2017. Majority of the CETA provisions are in force except for areas related mainly with the investment.

In order to facilitate the implementation of CETA, a comprehensive institutional framework was founded. Led by the CETA Joint Committee, 13 committees were established to overlook the implementation of the agreement in specific fields.[211] Moreover, several meetings were held on a variety of issues such as

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[210] "Letter in the Framework of the Political Dialogue: The Role of National Parliaments in Free Trade Agreements", 25.06.2014, https://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/docs/luxembourg/own_initiative/oi_role_of_national_parliaments_in_free_trade_agreements/oi_role_of_national_parliaments_in_free_trade_agreements_deputes_opinion_en.pdf, (12.04.2018).

[211] Specialized Committees are the following:
• Committee on Trade in Goods
• Committee on Agriculture
• Committee on Wines and Spirits
• Joint Sectoral Group on Pharmaceuticals
• Committee on Geographical Indications
• Joint Management Committee for Sanitary and Phytosanitary Measures
• Joint Customs Cooperation Committee
• Committee on Government Procurement
• Committee on Services and Investment
• Joint Committee on Mutual Recognition of Professional Qualifications
• Financial Services Committee
• Committee on Trade and Sustainable Development (European Commission, "Individual Reports and Info Sheets on Implementation of EU Free Trade Agreements", **Commission Staff Working**

geographical indications, sanitary and phytosanitary measures, trade and sustainable development. Furthermore, some bilateral dialogues were executed on forest products, innovation, e-commerce etc.

The EU and Canada have also signed a "Joint Interpretative Instrument" which was made an integral part of CETA. This document interprets and clarifies some controversial issues that were subject to public concerns such as right to regulate, public services, investment protection, sustainable development, labor and environmental protection. It is legally binding according to Article 31 of Vienna Convention on the Law of Treaties. In addition, 38 unilateral statements and declarations by member states and EU institutions were attached to CETA. They are legally non-binding statements referring to member states' specific interests and to EU institutions' explanations on competence issues for conclusion of the agreement.[212] Together with CETA, the two partners also signed the Strategic Partnership Agreement (SPA) that aims to enhance bilateral cooperation on a vast array of fields such as international peace and security, anti-terrorism, human rights, migration, non-proliferation of nuclear weapons, innovation, climate change and clean energy. In parallel with CETA, the SPA was approved by the European Parliament on 15 February 2017 and began to be provisionally applied on 1 April 2017.[213]

3.3. THE POSITIONS OF EU ACTORS, THE MOST CONTROVERSIAL ISSUES AND PUBLIC REACTIONS

In order to understand the conditions that affected the dynamics of inter-institutional relations during the CETA process, the following parts focus on the positions taken by the European Parliament and several member states as response to negotiations, signature and conclusion of the agreement. Then, the most controversial

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Document, SWD(2018) 454 final, 31.10.2018, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0454&from=EN, (17.05.2018), p. 16).

[212] Guillaume Van der Loo, "CETA's Signature: 38 Statements, a Joint Interpretative Instrument and an Uncertain Future", **CEPS Commentary,** 31.10.2016, https://www.ceps.eu/ceps-publications/cetas-signature-38-statements-joint-interpretative-instrument-and-uncertain-future/, (28.11.2018), p. 2.

[213] Government of Canada, "Strategic Partnership Agreement (SPA)", **Canada and the World,** 22.11.2019, https://www.international.gc.ca/world-monde/international_relations-relations_internationales/spa-aps.aspx?lang=eng, (07.12.2019).

issues related to CETA and public reactions to the agreement are handled more thoroughly.

3.3.1. The Position of the European Parliament

The CETA negotiations launched officially a couple of months before the entry into force of the Treaty of Lisbon which enabled extension of the competence of European Parliament in common commercial policy. Therefore, at the initial stages, the Commission did not formally inform the Parliament on the preparation of negotiations. Beginning with December of 2009, the Parliament began to follow the negotiations closely[214] and the Commission started to keep it regularly informed about the progress of the negotiations. The Parliamentarians forwarded questions for written answers to the Commission on various aspects of CETA and the Parliament adopted a resolution on 8 June 2011 stating its views on the desired outcome.

Following the signature of CETA, three committees of the European Parliament were asked for opinions on the conclusion of the agreement. The Committee on Foreign Affairs called on INTA, as the responsible committee, to recommend the Parliament's consent on the conclusion of CETA. The communicated opinion mainly focused on political and economic benefits of the agreement. The Committee on Environment, Public Health and Food Safety also declared its support for CETA's conclusion. In contrast, Committee on Employment and Social Affairs presented a report to INTA recommending for the rejection of the agreement. The report focused on potential job loses, the absence of a specific chapter on SMEs in the agreement and CETA's negative impact on trade with developing countries.[215] At the end, the INTA voted in favor of CETA and issued its recommendation for conclusion of the agreement. Hence, the European Parliament gave its consent to

[214] European Parliament, Negotiations.
[215] European Parliament, "Recommendation on the draft Council Decision on the conclusion of the Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one Part, and the European Union and its Member States, of the other Part", **Committee on International Trade,** 30.01.2017, http://www.europarl.europa.eu/doceo/document/A-8-2017-0009_EN.html?redirect, (18.10.2019).

CETA on 15 February 2017 by 408 votes to 254, with 33 abstentions.[216] The leading European political group- the European People's Party (EPP)- has strongly supported the deal. The Progressive Alliance of Socialists and Democrats (S&D) also gave consent, although the group was relatively more divided. The majority of European Conservatives and Reformists Party (ECR) and Alliance of Liberals and Democrats for Europe (ALDE) group representatives were in favor of the deal, either. However, European United Left/Nordic Green Left (GUE/NL), the Greens/European Free Alliance (Greens/EFA), Europe of Freedom and Direct Democracy (EFDD), Europe of Nations and Freedom (ENF) and Non-Inscrits (NI) did not give their consent. Distribution of votes by political groups can be seen at the Table 1.

Table 1: Distribution of Votes by EP Political Groups for the Draft Legislative Resolution of CETA

Group	For	Against	Abstentions	Absent	Non-voters	Members
ALDE	56	4	4	2	3	69
ECR	53	9	5	6	1	74
EFDD	4	22	1	15	0	42
ENF	0	39	1	0	0	40
EPP	194	5	7	8	3	217
Greens/EFA	2	46	2	1	0	51
GUE-NGL	0	49	0	3	0	52
NI	3	14	0	1	0	18
S&D	96	66	13	9	4	188

Source: "EU-Canada Comprehensive Economic and Trade Agreement: European Parliament Vote Details", **VoteWatch Europe**, https://www.votewatch.eu/en/term8-eu-canada-comprehensive-economic-and-trade-agreement-draft-legislative-resolution-vote-consent-conse.html#/##vote-tabs-list-2, (23.10.2019).

Non-supporting political groups have explained their reasons for refusal through tabling motions. For example, GUE/NGL Group presented a comprehensive list of arguments underlying CETA's potential impacts on social, environmental, health standards as well as on SMEs. Similar concerns were also raised by EFDD Group. ENF Group's motion, on the other hand, highlighted concerns mainly related

[216] European Parliament, "Results of Vote in Parliament", **Legislative Observatory,** 2017, https://oeil.secure.europarl.europa.eu/oeil/popups/sda.do?id=28115&l=en, (20.10.2019).

with the lack of transparency in CETA negotiations, agriculture and investor-state dispute settlement system. Greens/EFA focused on the potential negative effects of CETA on European democracy, social and environmental standards, agriculture and industrial policy. All of these motions were voted and rejected by the European Parliament in the plenary sitting on 15 February 2017.[217]

3.3.2. The Positions of the Member States

Although common commercial policy is an exclusive competence of the EU, the impact of the member states on trade policy cannot be neglected. A recent study revealed that the supranational position of the Commission may be challenged by member states in negotiations of a free trade agreement between the EU and a third country. During the negotiations of TTIP, variety in the positions of the member states affected Union's overall position.[218]

As regard to CETA negotiations, member states held different views in some occasions, either. Some issues resulted in controversies for several member states. In the following parts, the position of each relevant member state is discussed in relation to the conflictual issues separately.

3.3.2.1. Germany

Germany was one of the leading countries that has been subject to massive oppositions against CETA. About 190,000 German opponents of the agreement who mostly concerned on labor, environmental and consumer rights collected signatures against the agreement. The opponents composed of the political party *Die Linke* and a couple of activist groups such as Compact, Foodwatch and Mehr Demokratie

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[217] For more information, see European Parliament, "Conclusion of the EU-Canada CETA", **Debates**, 15.02.2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20170215+ITEM-007-02+DOC+XML+V0//EN&language=EN, (04.11.2019); European Parliament, "Conclusion of the EU-Canada CETA", **Minutes**, 15.02.2017, http://www.europarl.europa.eu/sides/getDoc.do?type=PV&reference=20170215&secondRef=ITEM-007-02&language=EN&ring=B8-2017-0145, (04.11.2019).

[218] Dilara Sülün, "Lizbon Antlaşması'nın Avrupa Birliği Ortak Ticaret Politikasına Etkileri ve Transatlantik Ticaret ve Yatırım Ortaklığı Antlaşması Vaka Çalışması", **Marmara Avrupa Araştırmaları Dergisi**, Vol. 25, No. 1, pp. 103-132.

applied to the German Federal Constitutional Court to prevent approval of the agreement by Germany in the Council. They claimed that the agreement would undermine the German Constitution as it does not enable parliamentarians to have a say on the deal.[219] Other concerns were related to the creation of investment court system and the deal's inclusion of the areas that go beyond the EU's competence. However, on 13 October 2016, the Federal Constitutional Court refused to prevent the German Government from signature, conclusion and provisional application of CETA and allowed the deal to go ahead on a few conditions. These conditions are listed as:

- Provisional application would apply only in the fields that are completely under the EU's exclusive competence;
- Sufficient democratic legitimacy should be ensured for the decisions taken by the CETA Joint Committee until the Federal Constitutional Court makes a decision in the principal proceedings;
- Based on the Article 30.7(3)(c) of the CETA, Germany could unilaterally withdraw from the agreement even if it begins to be provisionally applied.

In its judgement approving provisional application solely in 'EU-only' competence issues, Federal Constitutional Court also defined additional categories that would not subject to provisional application on the grounds that those areas were subject to the competence of the Federal Republic of Germany. These fields are international maritime transport, mutual recognition of professional qualifications and protection of workers.[220] In a second preliminary ruling on 7 December 2016, the Federal Constitutional Court repeated its previous decision on provisional application.[221]

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[219] "Germany's Top Court Allows CETA Trade Deal to go ahead", **Deutsche Welle,** 13.10.2016, https://www.dw.com/en/germanys-top-court-allows-ceta-trade-deal-to-go-ahead/a-36029183, (08.08.2018).
[220] Bundesverfassungsgericht, "Applications for a Preliminary Injunction in the "CETA" Proceedings Unsuccessful", **Press**, 13.10.2016, https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2016/bvg16-071.html, (08.08.2018).
[221] Bundesverfassungsgericht, "Order of the Second Senate of 07 December 2016 - 2 BvR 1444/16", **Decisions**, 7.12.2016, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2016/12/rs20161207_2bvr144416en.html, (08.08.2018).

3.3.2.2. France

France wanted to assess the compatibility of the CETA with its constitution. One of the main concerns was related with the potential impact of CETA's binding provisions on its national regulations and its exercise of national sovereignty. Environmental matters and stipulations related to provisional application and termination of the agreement were other contested issues. On 31 July 2017, the French Constitutional Council rejected these claims and declared that CETA is compatible with the French Constitution.[222] In the following months, in accordance with the promise made by President Emmanuel Macron during his election campaign, a committee composed of independent experts conducted a study on CETA's effects on environmental and public health and presented their findings to the Prime Minister. The committee stated that CETA could have been improved in the fields of environmental and public health; however, in general, the provisions in the agreement do not possess real risks that could hinder its provisional application.[223]

Just before the parliamentary voting on CETA, Former Environment Minister of France, Nicolas Hulot, who had resigned in August 2018 as response to Macron's slow pace of environmental reforms, wrote a letter to parliamentarians. By focusing CETA's negative impact on environmental and health standards, the Former Minister called on the Parliament to vote against the agreement.[224] Despite ongoing debates on its effects on environment, public health and farming sector, French Parliament approved CETA on 23 July 2019. The agreement was backed by 266 votes in the National Assembly, while 213 members including left wing and far-right voted against.[225]

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[222] Conseil Constitutionnel, "Decision no. 2017-749 DC of 31 July 2017", **Decision**, 31.07.2017, https://www.conseil-constitutionnel.fr/en/decision/2017/2017749DC.htm, (04.09.2018).
[223] Gouvernement, "France will Ensure CETA's Compliance with European Standards on Health and the Environment", **Latest News**, 22.09.2017, https://www.gouvernement.fr/en/france-will-ensure-ceta-s-compliance-with-european-standards-on-health-and-the-environment, (05.09.2018).
[224] "France's Hulot calls on Parliament to Vote against EU-Canada Trade Deal", **Euronews**, 22.07.2019, https://www.euronews.com/2019/07/22/frances-hulot-calls-on-parliament-to-vote-against-eu-canada-trade-deal, (07.09.2019).
[225] "French Parliament Approves Controversial EU-Canada Trade Deal CETA", **France 24**, 23.07.2019, https://www.france24.com/en/20190723-french-parliament-approves-controversial-eu-canada-trade-deal-ceta, (07.09.2019).

French concerns over CETA had also been observed during the voting for the adoption of the agreement in the European Parliament. Only 16 out of 74 French Members of the Parliament (MEPs) voted in favor of CETA.[226]

3.3.2.3. Bulgaria and Romania

Bulgaria and Romania declared that they would veto the signature of CETA due to Canada's visa requirements for their citizens, separately. While Romania was in favor of complete waiver beginning in 2017, Bulgaria was more flexible tending to accept a gradual process.[227]

According to a regulation of the European Parliament and of the Council adopted on 11 December 2013, in its relations with third countries, the EU aims at full visa reciprocity. In line with this objective, it is stated that the Union should provide a common response to a situation if a third country applies a visa requirement for the citizens of at least one member state and subjects its nationals to differing treatment.[228] Therefore, the Commission, Canada, Bulgaria and Romania met several times for resolution of the visa issue. At the end, the two countries demanded a written assurance from Canada to remove their reservations. Following the formal commitment of Canada to cancel visa requirements, they withdrew their objection and signed CETA.[229] On 1 December 2017, Canada lifted visa requirements on Bulgaria and Romania.[230]

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[226] Aline Robert, "France's Top Court Questions Constitutionality of CETA", **Euractive**, 23.03.2017, https://www.euractiv.com/section/economy-jobs/news/frances-top-court-questions-constitutionality-of-ceta/, (08.09.2019).

[227] Georgi Gotev, "Bulgaria and Romania Maintain Reservations on CETA", **Euractive**, 19.10.2016, https://www.euractiv.com/section/trade-society/news/bulgaria-and-romania-maintain-reservations-on-ceta/, (12.09.2019).

[228] "Regulation (EU) No 1289/2013 of the European Parliament and of the Council", **Official Journal of the European Union**, 20.12.2013, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0074:0080:EN:PDF, (17.09.2019).

[229] Carmen Paun, "Romania Reaches Visa Deal with Canada: Report", **Politico**, 21.10.2016, https://www.politico.eu/article/report-romania-reaches-visa-deal-with-canada/, (18.09.2019); Bulgarian Government Approves Signing of EU-Canada CETA Deal, **The Sofia Globe**, 25.10.2016, https://sofiaglobe.com/2016/10/25/bulgarian-government-approves-signing-of-eu-canada-ceta-deal/, (18.09.2019).

[230] Government of Canada, "Canada Lifts Visa Requirements on Romania and Bulgaria", **Newsroom**, 01.12.2017, https://www.canada.ca/en/immigration-refugees-citizenship/news/2017/12/canada_lifts_visarequirementsonromaniaandbulgaria.html, (21.09.2019).

3.3.2.4. Belgium/ Walloon Region

As explained earlier in the dissertation, the position of Belgium presents a specific case because a trade agreement signed by the federal government of Belgium must be approved by all of the regional and community parliaments. It is a constitutional requirement for the ratification process, as well.

During signing process of CETA, political divisions occurred in Belgium both at the federal and regional levels. This was also reflected to the voting in European Parliament. The Belgian Socialist MEPs voted against the approval of CETA. On the contrary, most Belgian MEPs from other groups voted in favor. The effect of Belgian internal political divide on voting in the European Parliament was also observed in the disagreement between the Flemish North and the Walloon South. Whereas nine out of eleven Flemish MEPs supported CETA, six out of nine Walloon MEPs did not give their consent.[231]

The most controversial case was the objection of Walloon region. The Minister President of Wallonia, Paul Magnette, has emerged as the strongest opponent of the agreement and the government of Wallonia denied giving consent to the Belgian federal government for signing of CETA. Wallonia’s concerns were mainly regarding Investor - State Dispute Settlement (ISDS) and potential risks on EU European food safety, social and environmental standards.[232]

In order to get Wallonia’s approval, Belgian Federal Government and the governments of the federated entities reached a compromise on 27 October 2016. The outcome was an explanatory document serving as an annex to CETA, together with the Joint Interpretative Instrument. According to the compromise, Belgium made its signing conditional upon the opinion to be requested from CJEU on the compatibility of certain parts of the CETA with EU treaties, specifically those related to the investment chapter. Belgium asked the Court to rule on the compatibility of the investment court system with the following:

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[231] “Is Belgium’s Internal Divide Reflected in European Politics?”, **VoteWatch Europe**, 10.05.2017, https://www.votewatch.eu/blog/is-belgiums-internal-divide-reflected-in-european-politics/, (25.09.2019).
[232] Van der Loo and Pelkmans, p. 2.

- principle of autonomy of EU law
- general principle of equality and 'practical effect' requirement of EU law
- right of access to the courts
- right to an independent and impartial judiciary.[233]

The October 2016 compromise also included such matters as regional entities' right to refuse to ratify CETA and the government's right to observe the socio-economic effects of CETA during the provisional application.[234] This deal resolved the deadlock and resulted in signing of CETA between the EU and Canada on 30 October 2016, after a four-day delay from the planned date. After one month of CETA's signature, a declaration led by Paul Magnette and signed by around forty academics from Europe and across Atlantic was published on EU trade policy. The declaration called for protection of democratic, socio-economic and environmental standards as well as public interests in EU trade agreements.[235]

A variety of arguments were made on real motivations behind Magnette's and his socialist party's opposition to CETA. It was claimed that the reason was mainly political and based on an intention of undermining the position of liberals who constituted a part of the federal government. Yet another argument was that his party did not want to risk the votes of its supporters in Wallonia where there was increasing poverty and unemployment.[236] Whatever the reason might be, with a population of 3.6 million, Wallonia nearly hindered the signing of CETA between two significant trading partners.

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[233] Kingdom of Belgium Foreign Affairs, "Minister Reynders Submits Request for Opinion on CETA", **Newsroom,** 06.09.2017, https://diplomatie.belgium.be/sites/default/files/downloads/ceta_summary.pdf, (04.10.2019). On 30 April 2019, the Court decided that ICS provisions of CETA are consistent with the EU law (European Commission, "European Court of Justice Confirms Compatibility of Investment Court System with EU Treaties", **Trade News Archive**, 30.04.2019, http://trade.ec.europa.eu/doclib/press/index.cfm?id=2014, (04.10.2019).

[234] Iana Dreyer, "Belgian Compromise: Wallonia Can Still Veto CETA", **Borderlex,** 27.10.2016, https://borderlex.eu/2016/10/27/final-shape-belgian-deal-ceta/, (07.10.2019).

[235] "Namur Declaration", 05.12.2016, https://bilaterals.org/?namur-declaration&lang=en, (09.10.2019).

[236] Ian Laird and Flip Petillion, "Comprehensive Economic and Trade Agreement, ISDS and the Belgian Veto: A Warning of Failure for Future Trade Agreements with the EU?", **Global Trade and Customs Journal**, Vol. 12, No. 4, 2017, p. 173.

3.3.3. Controversial Issues in CETA

Due to CETA's deep and comprehensive scope, the provisions of the agreement affect both the regulatory policies of states and fundamental rights of citizens. That resulted in politicization of the deal and created controversies in many respects. The concerns specific to several member states were elaborated in the previous part. This part has an issue-specific focus. Below are discussed two of the main politically sensitive issues of CETA that led to intense debates both at the EU and member state levels.

3.3.3.1. Investment Protection and Resolution of Investment Disputes

One of the major debates on CETA has been regarding its investment chapter. Since the entry into force of the Treaty of Lisbon, the EU has been negotiating bilateral investment agreements and free trade agreements covering investment provisions. CETA is the first treaty signed by the EU that also includes investment protection provisions besides investment liberalization measures. The provisions comprise a dispute settlement mechanism for disputes between investors and states.

There were mainly two controversial issues regarding CETA's investment chapter. One was related with the competence issue, whether or not regulation of investment falls under the EU competence. According to the Article 207 of TFEU, foreign direct investment is a part of common commercial policy which makes it an exclusive EU competence. However, other forms of investment are not mentioned in the article. For example, member states were claiming that portfolio investment does not fall under Commission competence. On the other hand, the Commission was arguing for an implied EU competence on portfolio investments based upon the internal market chapter on free movement of capital.[237] Hence, the problems stemming from the vague formulation of the conceptual definition and practical operations were one part of the debate. The other part was related with the dispute settlement mechanism itself. ISDS is a non-judicial arbitration mechanism that allows firms to sue host governments and claim compensation for state actions in

[237] European Parliament, A Guide, p. 5.

order to protect their investment. It has been argued that this mechanism had structural problems such as inconsistency in outputs, lack of transparency, insufficient procedural integrity and unbalanced relationship between the ISDS and domestic legal systems.[238] Moreover, questions were raised regarding potential negative effects of directly suing states at private international tribunals on environment and citizen rights.[239]

Oppositions from the European Parliament and some member states were mainly directed to the investment protection provisions of the agreement in general and ISDS in particular. In its resolution of 8 June 2011, the Parliament expressed its discontent with the Commission's proposal to the Council for modification of negotiating directives to cover investment-related issues without waiting for the Parliament's opinion on the future EU investment policy in general. Moreover, the Parliament stated that ISDS mechanism is not the appropriate tool to solve the investment disputes and underlined its potential future effects on legislation in sensitive policy issues such as environmental legislation.[240] Germany attempted not to sign the CETA in 2014 due to inclusion of the ISDS provisions in the agreement.[241] The Commission, on the other hand, was supporting ISDS mechanism by arguing that EU member states already have more than 1000 bilateral investment agreements with other states that contain ISDS provisions.[242]

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[238] European Parliament, "The Investment Chapters of the EU's International Trade and Investment Agreements in a Comparative Perspective", **Directorate-General for External Policies Policy Department,** 09.2015, https://www.europarl.europa.eu/RegData/etudes/STUD/2015/534998/EXPO_STU(2015)534998_EN.pdf, (03.06.2018), p. 20.

[239] Pia Eberhardt, Blair Redlin and Cecile Toubeauhttps, "Trading Away Democracy: How CETA's Investor Protection Rules Threaten the Public Good in Canada and the EU", 11.2014, https://corporateeurope.org/sites/default/files/trading-away-democracy.pdf, (03.06.2018).

[240] European Parliament, "European Parliament Resolution of 8 June 2011 on EU-Canada Trade Relations", 08.06.2011, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-257, (04.06.2018).

[241] Wanda Troszczynska-Van Genderen, "Stakeholder, Parliamentary and third country Concerns about the EU-Canada Comprehensive Trade and Economic Agreement (CETA)", **Directorate-General for External Policies Policy Department**, 12.2014, http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536428/EXPO_IDA(2014)536428_EN.pdf, (04.06.2018).

[242] "Germany Wants Investment Clause Scrapped in EU-Canada Trade Deal", 25.09.2014, https://www.euractiv.com/section/trade-society/news/germany-wants-investment-clause-scrapped-in-eu-canada-trade-deal/, (12.06.2018).

In light of increasing discussions, the Commission held a web-based public consultation on investment protection and ISDS between March and July, 2014. The consultation was carried out in the context of TTIP by referring to the specific clauses in CETA. Majority of the responses were negative; the participants either called to remove the ISDS clauses or stop the whole agreement.[243] Moreover, in a joint declaration, Germany and France called on Commission for examining "all the options for modifying" the ISDS clause.[244]

In order to clarify the uncertainty regarding competence issues, the Commission requested the opinion of the Court of Justice on the signature and conclusion of the EU - Singapore free trade agreement, which was also including investment clauses, by asking which provisions of the agreement are shared or exclusive competence.[245] It took almost three years for the Court to communicate its decision that the EU does not have exclusive competence on portfolio investment and dispute settlement regime between investors and the state.[246]

Within this context, the European Commission proposed new Investment Court System (ICS) in September 2015, which was presented as fairer and more transparent, to replace ISDS mechanism in all ongoing and future EU investment negotiations. The ICS is composed of a tribunal and appellate body. As contrast to the arbitration mechanism of the ISDS, parties to the dispute are not allowed to select their tribunal members, instead, they will be appointed by the CETA Joint Committee. In its press release, the Commission stated that "The proposal for an Investment Court System builds on the substantial input received from the European Parliament, Member States, national parliaments and stakeholders through the public

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243 European Commission, "Online Public Consultation on Investment Protection and Investor-to-State Dispute Settlement (ISDS) in the Transatlantic Trade and Investment Partnership Agreement (TTIP)", **Commission Staff Working Document,** SWD(2015) 3 final, 13.01.2015, http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153044.pdf, (14.06.2018), p. 14.

244 Cécile Barbière, "Paris and Berlin Call for Review of EU-Canada Trade Deal", **Euractive**, 27.01.2015, https://www.euractiv.com/section/trade-society/news/paris-and-berlin-call-for-review-of-eu-canada-trade-deal/, (12.06.2018).

245 European Parliament, "Comprehensive Economic and Trade Agreement (CETA) with Canada", **Briefing**, 10.2016, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593491/EPRS_BRI%282016%29593491_EN.pdf, (21.06.2018).

246 Court of Justice of the European Union, "The Free Trade Agreement with Singapore Cannot, in its Current Form, be Concluded by the EU alone", **Press Release,** No. 52/17, 16.05.2017, https://euractiv.eu/wp-content/uploads/sites/2/2017/05/CP170052EN.pdf, (21.06.2018).

consultation held on ISDS."[247] In a letter to European Commissioner for Trade, Cecilia Malmström, European Parliament INTA Committee chair Bernd Lange highlighted the significance of Commission's taking European Parliament's concerns into consideration while also recommending further changes on the proposal related to such issues as corporate social responsibility and sustainable development.[248]

Despite the proposal for ICS was made only for TTIP and future EU trade agreements, the Parliament was holding the view that it should also be incorporated to CETA. Although the negotiations on CETA have formally ended in 2014, Canadian and the EU officials have agreed to make some modifications to the investment chapter as a part of legal review of the CETA text. Thus, all main aspects of the Commission's proposal for ICS have been included by the finalized CETA text. Being delighted with this result, EU Trade Commissioner Cecilia Malmström said that "We've met the expectations of both the Member States and the European Parliament."[249]

The Commission's modification of the CETA's investment provisions to include new ICS points out the success of both member states and the European Parliament. Although some MEPs claim that the changes are only minor or linguistic corrections to the text, David Martin, Trade Spokesman for the S&D Group which was strongly pushing for the inclusion of new ICS in CETA, welcomed the decision and described it as a massive step forward.[250] Besides, findings of a study comparing two versions of CETA revealed that the text modified as a result of legal scrubbing is 19% different from the text released at the end of negotiations in 2014. While the

[247] European Commission, "Commission Proposes New Investment Court System for TTIP and Other EU Trade and Investment Negotiations", **Press Release,** 16.09.2015, http://europa.eu/rapid/press-release_IP-15-5651_en.htm, (21.09.2018).
[248] Bernd Lange, "Letter to European Commissioner for Trade", 11.11.2015, https://ec.europa.eu/carol/index-iframe.cfm?fuseaction=download&documentId=090166e5a395948b&title=letter_Bernd%20LANGE%20ICS.pdf, (24.09.2018).
[249] European Commission, "CETA: EU and Canada Agree on New Approach on Investment in Trade Agreement", **Trade News Archive,** 29.02.2016, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1468, (28.09.2018).
[250] European Views, "Changes to CETA Text Under Legal Scrubbing Do Not Set Dangerous Precedent, Says David Martin MEP", **Videos,** 15.04.2018, https://www.european-views.com/2018/04/changes-to-ceta-text-under-legal-scrubbing-do-not-set-dangerous-precedent-says-david-martin-mep/, (28.09.2018).

minority of the changes stems from the simplifying and clarifying language, the majority consists of material modifications and redesigning.[251]

3.3.3.2. Intellectual Property Rights

Before explaining the debates on intellectual property rights in CETA negotiations, the background of discussions on this issue is presented firstly. As mentioned previously, ACTA, an international agreement on intellectual property rights signed by the EU and several member states, had just been rejected by the European Parliament before the beginning of CETA negotiations. That had a direct implication on the relevant provisions of CETA. Thus, brief information on ACTA process is given below that is followed by its effect on CETA.

3.3.3.2.1. Rejection of the ACTA by the European Parliament

ACTA was a proposed international agreement on anti-counterfeiting law that aims to enforce international standards for intellectual property rights. It was negotiated between the EU and its member states, the US, Australia, Canada, Japan, Mexico, Morocco, New Zealand, Singapore, South Korea and Switzerland. In January 2012, the EU and 22 member states signed the agreement. One month later, the Commission referred ACTA to the CJEU for an opinion whether ACTA is compatible with the treaties, especially with the EU Charter of Fundamental Rights. The Commission also asked the Parliament to wait for the Court's ruling before voting; however, the Parliament decided to scrutinize the agreement without waiting. It had already expressed its concerns through two resolutions published on 11 March 2009 and 10 March 2010, respectively. The Parliament mainly underlined lack of transparency in ACTA negotiations and the agreement's potential impact on

[251] Wolgang Alschner, "Legal Scrubbing or Renegotiation? A text-as-data Analysis of How the EU Smuggled an Investment Court into Its Trade Agreement with Canada", **Mapping BITs**, 24.03.2016, http://mappinginvestmenttreaties.com/blog/2016/03/legal%20scrubbing-ceta/, (08.10.2018).

fundamental rights and data protection[252], although it welcomed improvements on these issues with a later resolution.[253]

The concerns with the treaty were mainly related with its vagueness and openness to misinterpretation that may infringe individual liberties.[254] These concerns resulted in public protests across the Europe and intense discussions within the European Parliament. Following the signature of the ACTA, the European Parliament's rapporteur for the agreement Kader Arif (S&D) resigned from the post. He criticized the lack of consultation of the civil society, lack of transparency and rejection of Parliament's recommendations during ACTA negotiations.[255]

In the Parliament, there was a clear division along political lines regarding voting on ACTA. While Socialists, Liberals, Greens and GUE/NGL were in favor of voting without waiting the opinion of the CJEU, European Peoples Party and European Conservatives and Reformists group were arguing for waiting the Court's decision.[256] ACTA was discussed in four parliamentary committees, all of which declared their objection to the treaty.[257] At the end, the lead committee on ACTA, INTA, voted against ACTA, hence recommended the Parliament to reject the agreement. Besides, a petition signed by nearly three million people who were against ACTA was submitted to the petition committee.[258] Finally, in July 2012 plenary voting, the European Parliament declined its consent to ACTA with 478 votes against the agreement, 39 in favor and 165 abstained. Thus, the treaty did not

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[252] European Parliament, "European Parliament Resolution of 10 March 2010 on the Transparency and State of Play of the ACTA Negotiations", 10.03.2010, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0058&language=EN&ring=P7-RC-2010-0154, (08.10.2018); For more information, see European Parliament, "Everything You Need to Know about ACTA", 18.07.2012, http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20120220FCS38611&format=XML&language=EN#title2, (08.10.2018).

[253] European Parliament, "European Parliament Resolution of 24 November 2010 on the Anti-Counterfeiting Trade Agreement (ACTA)", 24.11.2010, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0432+0+DOC+XML+V0//EN&language=DE, (11.10.2018).

[254] European Parliament, "European Parliament Rejects ACTA", **Press Releases**, 04.07.2012, http://www.europarl.europa.eu/news/en/press-room/20120703IPR48247/european-parliament-rejects-acta, (12.10.2018).

[255] Dave Lee, "European Parliament Rapporteur Quits in ACTA Protest", **BBC News,** 08.03.2012, https://www.bbc.com/news/technology-16757142, (12.10.2018).

[256] Georgi Gotev, "MEPs to 'Finish off' ACTA on 4 July", **Euractive,** 22.06.2012, https://www.euractiv.com/section/digital/news/meps-to-finish-off-acta-on-4-july/, (18.08.2018).

[257] These committees are legal affairs committee, the industry committee, the civil liberties committee and the development committee (European Parliament, Everything You Need to Know).

[258] European Parliament, Everything You Need to Know.

enter into force. This is significant as this was the first time that the Parliament exercised its formal power to reject an international agreement already signed by the EU.[259] The President of Socialists and Democrats group Hannes Swoboda expressed his view on this issue as "The Commission and the Council will now be aware that they cannot overrun the Parliament."[260]

3.3.3.2.2. The Effect of Rejection of ACTA on CETA

A couple of days after the rejection of ACTA by the European Parliament, Canadian law professor Michael Geist published a document comparing the provisions of ACTA and CETA on intellectual property. The professor based his arguments on the leaked document of CETA, dated February 2012, when the negotiations between the EU and Canada were still ongoing and the official text of the agreement had not been released yet. He asserted that many of ACTA provisions were incorporated to the CETA, even by word-for-word copying.[261] This claim has attracted considerable attention of the European media and public. The European Commission responded to this situation by stating that the leaked text was the old version and two ACTA provisions involving internet providers had already been dropped from the CETA text. EU Trade spokesperson John Clancy added that changes are limited to only these two provisions. However, the remaining provisions such as on digital locks, damages, criminal provisions, and border measures were also subject to discussions.[262] Later, the European Commission published a document to assure that CETA does not contain ACTA provisions regarding internet providers and criminal enforcement which were claimed by the Commission as the most controversial issues. It was also added that earlier drafts of CETA on intellectual property may reflect similarities to ACTA since both the EU and Canada had

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[259] European Parliament, European Parliament Rejects ACTA.
[260] Charles Arthur, "ACTA Down, but not out, as Europe Votes against Controversial Treaty", **The Guardian**, 04.07.2012, https://www.theguardian.com/technology/2012/jul/04/acta-european-parliament-votes-against, (13.08.2018).
[261] Michael Geist, "ACTA Lives: How the EU & Canada Are Using CETA as Backdoor Mechanism To Revive ACTA", **Michael Geist,** 09.07.2012, http://www.michaelgeist.ca/2012/07/ceta-acta-column/, (19.08.2018).
[262] Michael Geist, "EC Says ACTA ISP Provisions Dropped from CETA, Yet Most of ACTA Likely Remains Intact", **Michael Geist,** 11.07.2012, http://www.michaelgeist.ca/2012/07/ec-response-to-ceta/, (19.08.2018).

negotiated ACTA; however, as the agreement was rejected by the European Parliament and did not enter into force, this was taken into consideration in ongoing CETA negotiations.[263]

3.3.4. Public Reactions to CETA

Public's awareness in Europe about CETA increased especially towards the end of its negotiation period (2013-2014) which coincided with the beginning of EU - US TTIP negotiations. It was triggered by the opposition mobilized against TTIP which mainly came from German and Austrian activists who extended anti-TTIP claims to CETA.[264] Public concerns centered on possible negative impacts of these agreements on employment, social, environmental and consumer standards, individual privacy, public services, cultural assets and intellectual property rights. Other critical issues were regulatory cooperation and investor-state dispute settlement mechanism that were perceived as a threat to the rule of law and democracy.[265]

The concerns started to attract considerable attention with the establishment of a self-organized coalition called 'Stop TTIP'. In July 2014, Stop TTIP Committee invited the Commission to register a European Citizens Initiative (ECI) that was calling for EU institutions and member states to suspend the TTIP negotiations and to not conclude CETA. More than three million signatures were collected from a network comprising NGOs, political parties, trade unions and citizens across 23 different countries.[266] In September 2014, the Commission rejected 'Stop TTIP'

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[263] Michael Geist, "EU Assures that CETA Does Not Contain ACTA Copyright Rules", **Michael Geist,** 21.10.2013, http://www.michaelgeist.ca/2013/10/eu-ceta/, (21.08.2018).
Later, Michael Geist argued that the removal of ACTA provisions on copyright from CETA was a result of the success of Canada that managed to affect the agreement in line with its own copyright reforms. While the earlier drafts of CETA intellectual property chapter reflected European demands on copyright, digital lock rules and internet service provider liability, the modified text reflected the Canadian approach. According to Geist, this result "represents a win for Canada."(Michael Geist, "How Canada Shaped the Copyright Rules in the EU Trade Deal", **Michael Geist,** 21.08.2014, http://www.michaelgeist.ca/2014/08/canada-shaped-copyright-rules-eu-trade-deal/, (21.08.2018).
[264] Meunier and Czesana, p. 6.
[265] "European Citizens' Initiative: Stop TTIP", 10.07.2017, https://ec.europa.eu/citizens-initiative/public/initiatives/obsolete/details/2017/000008, (03.04.2018).
[266] Sam Morgan, "Anti-TTIP Petition Signed by 3 Million People", **Euractive**, 09.11.2015, https://www.euractiv.com/section/agriculture-food/news/anti-ttip-petition-signed-by-3-million-people/, (12.08.2018).

Initiative on the ground that it was outside the scope of ECI regulation. However, the Stop TTIP Coalition continued to collect signatures and applied to the CJEU by submitting an appeal against Commission's rejection. In May 2017, the CJEU annulled the Commission's decision to refuse to register the initiative. Thus, the Commission registered it in July 2017. However, the request for a proposal not to conclude CETA became devoid of purpose as the agreement had been signed on 30 October 2016.[267]

Besides signing ECI petition, the resistance against free trade agreements including CETA took place in the form of marches and demonstrations on the streets. On 11 October 2014, a European Day of Action was organized by citizens and civil society organizations in 22 countries against CETA, TTIP and Trade in Services Agreement (TISA). People gathering in more than 1100 places across Europe organized various actions such as massive marches, seminars, meetings, concerts and public stands to collect signatures for Stop TTIP Initiative.[268] A similar event was reorganized globally on 18 April 2015. Moreover, on 10 October 2015, almost 250,000 people gathered in Berlin for a massive demonstration against CETA and TTIP which was marked as the largest protest in Germany since the protests against the Iraq war in 2003. Protesters included social welfare organizations like Paritätische Wohlfahrtsverband, environmentalist organizations like WWF and Greenpeace, development organizations such as Bread for the World and Oxfam, the German small farmers association, the citizens' movement Campact, organizations against globalization like Attac, the consumer protection group Foodwatch, organization for direct democracy Mehr Demokratie.[269]

On 17 September 2016, nearly 320.000 people took part in another organization to protest TTIP and CETA in various European cities. The protests took place mainly in Germany, simultaneously in seven German cities. Vienna and

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[267] European Commission, "European Citizens' Initiative: Commission Registers 'Stop TTIP' Initiative", **Press release**, 04.07.2017, https://europa.eu/rapid/press-release_IP-17-1872_en.htm, (12.08.2018).

[268] European Coordination Via Campesina, "European Action Day: Citizens in 22 Countries Demand "Stop TTIP, CETA and TiSA", **Press Release,** 13.10.2014, https://www.eurovia.org/press-release-11-october/, (12.08.2018).

[269] Dinah Deckstein, Simone Salden and Michaela Schießl, "Protests Threaten Trans-Atlantic Trade Deal", **Spiegel International**, 06.05.2016, https://www.spiegel.de/international/world/protest-movement-threatens-ttip-transatlantic-trade-deal-a-1091088.html, (16.08.2018).

Salzburg in Austria and Gothenburg and Stockholm in Sweden were other European places where smaller protests were organized.[270] A few days later, thousands of protesters marched in Brussels as a final effort to prevent the EU from signing CETA that eventually realized on 30 October 2016.[271]

[270] Michael Nienaber, "Tens of Thousands Protest in Europe against Atlantic Free Trade Deals", **Reuters,** 17.09.2016, https://www.reuters.com/article/us-eu-usa-ttip/tens-of-thousands-protest-in-europe-against-atlantic-free-trade-deals-idUSKCN11N0H6, (06.09.2018).
[271] Philip Blenkinsop, "Protesters March in Brussels against Transatlantic Free Trade Deals", **Reuters,** 20.09.2016, https://www.reuters.com/article/us-eu-trade-protests/protesters-march-in-brussels-against-transatlantic-free-trade-deals-idUSKCN11Q2CO, (06.09.2018).

CHAPTER FOUR
METHODOLOGY, DATA ANALYSIS AND THE MAIN FINDINGS

4.1. THEORETICAL FRAMEWORK AND RESEARCH QUESTIONS

As specified before, this dissertation aims to investigate the roles of the EU's main institutions in common commercial policy. Is the Commission's autonomy restricted by the Council/ member states and/or the Parliament? Do the preferences of the European Commission, Council of the European Union and European Parliament regarding trade policy differ from each other? Which institutions are successful in affecting the outcome of trade negotiations? To answer these questions, the positions of the three institutions towards CETA and the impact of each institution on the final agreement are examined. Principal-agent approach is chosen to provide a theoretical framework to serve for the research objectives, because it surveys dynamics of delegation of authority in an institutional setting by one or more principals to an agent. This approach is based on the assumption that the preferences of the agent are distinct from that of the principals, thus the agent might drift from the principals' preferences within the limits of the principal-agent relationship.[272] As explained in the first chapter of the dissertation, in the EU institutional framework, principal agent approach is mainly used to examine the Commission's authority as the agent and the mechanisms used by the member states as the principals to control its autonomy. Besides the member states, there are currently other actors in the EU such as the European Parliament that may affect the Commission's behavior and trade policy outcomes.

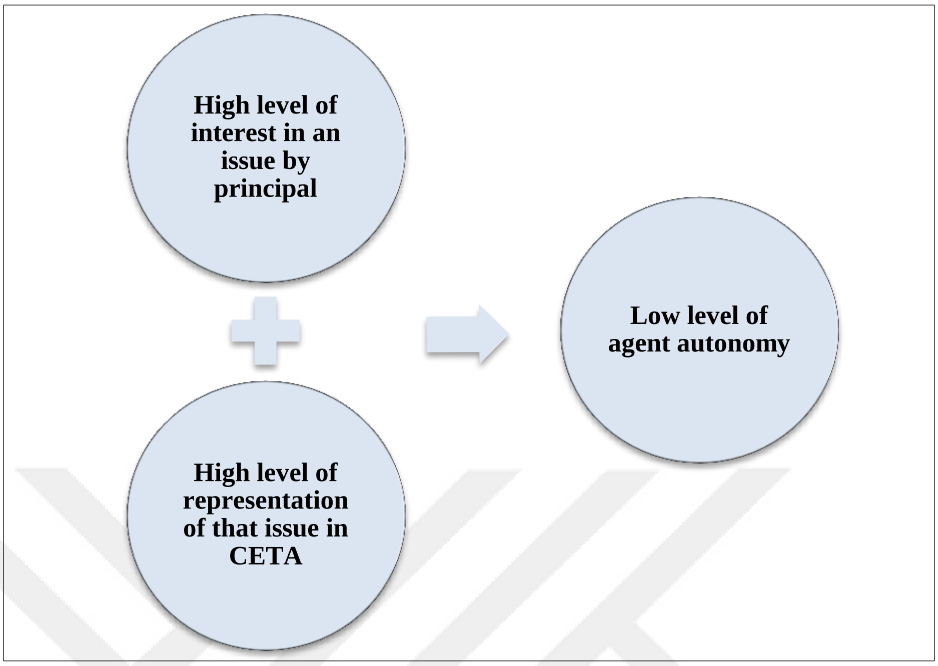
Although the Commission is created by principals through delegation of power and discretion[273] in order to reduce transaction costs[274] of EU decision-making, over time it may tend to develop its own preferences departing from the preferences of its principals to trigger further integration.[275] Its policy expertise and

[272] Pollack, The Engines of European Integration.
[273] Discretion refers to features of the act of delegation such as constitution, legislation or any contract that draws the boundaries of the agent's actions (Pollack, The Engines of European Integration, p. 28).
[274] These costs are both related with technical information/expertise and electoral pressures.
[275] Pollack, The Engines of European Integration, p. 19.

institutional persistence may provide the Commission some advantages to go on its own path within the limits of given discretion. A recent study conducted by Gastinger and Adriaensen investigated how much discretion the Commission enjoyed in EU-US TTIP negotiations by measuring the levels of 'interest in a decision' by principals.[276] Thus, within the context of CETA negotiations, this dissertation follows a similar approach. In order to understand whether the Council/member states and the Parliament constrained the Commission's autonomy during CETA negotiations and whether the preferences of these three institutions differed from each other significantly, the intensity of their interests for the issues covered by the negotiations are analyzed. This method is based on the assumption that 'interest in a decision' by principals affects the level of agent discretion. In a principal-agent relationship, information about the agent's activities (for example about technical requirements of a specific proposal) may be asymmetrically distributed in favor of the agent.[277] Thus, information asymmetry between the principals and the agent is an important aspect of agent's autonomy. The more the principals have imperfect information and possess unclear preferences, the greatest the autonomy of the agent.[278] Existence of at least one principal showing considerable interest in a negotiated issue would then mean decreasing information asymmetry between the principals and the agent, thus increasing the possibility of restricting agent's actions. Given the limited resources and opportunity costs, it can be anticipated that the principals would be interested in a limited number of subjects on a selective basis.[279] Within the context of CETA negotiations, it is assumed that if a negotiation subject, attracting considerable attention by at least one principal, finds a significant place in the final text of agreement, this would imply that the agent's discretion and autonomy were restricted since it would indicate that principal (or principals) managed to affect the final outcome in line with its (their) preferences. This relationship is indicated in the below diagram.

[276] Gastinger and Adriaensen.
[277] Pollack, The Engines of European Integration, p. 26.
[278] Pollack, Delegation, Agency, and Agenda Setting, p. 130.
[279] Gastinger and Adriaensen, p. 356.

Figure 3: Research Model



Based on this relationship, the following hypothesis is formulated:

Hypothesis 1: *If an issue, that attracts high level of interest of a principal, finds a prevalent space in the main text of CETA, that principal can be evaluated as successful in affecting the final agreement, thus the Commission's autonomy can be considered limited.*

In order to categorize the issues handled in CETA, a political-economic perspective is chosen. Thus, the positions of the European Commission, Council of the European Union and European Parliament towards CETA are determined based on a differentiation between value - and economic interest –orientation. This categorization coincides with the main rationale of the EU's contemporary trade strategy "Trade for All".[280] According to this strategy, the EU aims for both realizing the material interests of traditional trade policy and promoting European values through its trade agreements. In other words, its main objective is to ensure that "EU

[280] European Commission, "Trade for All: Towards a More Responsible Trade and Investment Policy", 2015, https://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf, (02.02.2017).

trade policy is not just about interests but also about values".[281] As one of the new generation trade agreements of the EU, CETA is also based upon this strategy. Trade Commissioner Cecilia Malmström explains the most significant aspects of CETA as to ensure the EU's connections to the global economy, to present a plenty of economic benefits to the Europeans and to improve the role of the EU in shaping the future of the global economy in line with European values.[282]

In the literature of EU trade policy, the general view is that the Council and Parliament are more interested in non-commercial matters such as environmental protection or human rights, while the Commission is considered as a more free-trade oriented actor.[283] The new generation trade agreements such as TTIP and CETA are very comprehensive in the sense that besides the traditional 'at the border' commercial issues, they include provisions affecting 'behind the border' practices. Inclusion of these fields requires the trading partners to coordinate their social, environmental or health standards that are regulated by state. As this kind of agreements has a potential to affect individual liberties and public services, it can be expected that the European Parliament, as the EU's only institution directly elected by European people, is more likely to emphasize European values than material issues in the context of CETA. A similar assumption could also be made for the Council because it represents the interests of member states' governments which are responsible to their voters. Given the increasing public protests around Europe towards deep RTAs, the Council may tend to seem more interested in protection of standards than commercial gains. Each of these two institutions is expected to make an effort to affect the final agreement in line with its orientation. Based on these assumptions, the following hypotheses are formulated:

Hypothesis 2a: *The Parliament and the Council are expected to be more value-oriented than economic interest-oriented.*

[281] European Commission, Trade for All, p. 5.
[282] Cecilia Malmström, "CETA: Europe's Next Trade Step", **Speech in European Parliament,** Brussels, 09.12.2015, http://trade.ec.europa.eu/doclib/docs/2015/december/tradoc_154022.pdf, (03.04.2017).
[283] Sieglinde Gstöhl and Dirk De Bièvre, **The Trade Policy of the European Union,** Red Globe Press, 2018, p. 11.

Hypothesis 2b: *The Parliament and Council are expected to influence more the (value-related) normative parts of CETA than (interest-related) material parts.*

On the contrary, the Commission, as the official representative of the EU in international trade and primary interlocutor of the third countries in their commercial relations with the Union, is expected to emphasize the economic motivations to sign a trade deal. A study analyzing the Commission's trade discourse in the context of recent global and Eurozone crisis indicates that the Commission defends and promotes the EU's neoliberal trade agenda.[284] Holden[285] and Siles-Brügge[286] also found that the Commission is a neoliberal-oriented trade actor. Hence, as an EU institution that implements trade strategies in line with neoliberal economic principles, the Commission may tend to prioritize material benefits of a free trade agreement for the European economy in general and for the business sector in particular. Thus, the following hypotheses are formulated:

Hypothesis 3a: *The Commission is expected to be more economic interest-oriented than value-oriented.*

Hypothesis 3b: *The Commission is expected to influence more the material parts of CETA than normative parts.*

4.2. METHODOLOGY OF THE RESEARCH

In this research, qualitative methodology is applied with quantification of codes through content analysis. Although qualitative research is not as much common as quantitative research in the literature of EU trade, compared to the past, it has begun to be applied more frequently for analysis of documents in EU trade

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[284] Ferdi De Ville and Jan Orbie, "The European Commission's Neoliberal Trade Discourse Since the Crisis: Legitimizing Continuity through Subtle Discursive Change", **British Journal of Politics and International Relations**, Vol. 16, 2014, pp. 149-167.

[285] Patrick Holden, "Neo-liberalism by Default? The European Union's Trade and Development Policy in an Era of Crisis", **Journal of International Relations and Development,** Vol. 20, 2017, pp. 381–407.

[286] Gabriel Siles-Brügge, "Resisting Protectionism after the Crisis: Strategic Economic Discourse and the EU–Korea Free Trade Agreement", **New Political Economy**, Vol. 16, No. 5, 2011, pp. 627-653.

politics. To give a few examples, one of the recent studies analyzes two policy documents published by the European Commission in the field of trade and development through a combination of critical discourse analysis and political economy.[287] Yet another study examines how construction of a neoliberal discourse by the Commission was framed as a necessary response to 2008 economic crisis to enable EU's signature of an ambitious free trade agreement with South Korea.[288] As mentioned earlier, a recent study conducted by Gastinger and Adriaensen analyzes the interests of the Council of the EU, European Parliament and citizens in the subjects covered by TTIP through coding of relevant documents and conducting surveys and interviews with European Commission officials.[289]

Following similar studies conducted in the field of EU trade policy, this dissertation aims to contribute to the literature by combining content analysis with different theoretical perspectives. The main objective of content analysis is to contribute to the existing theoretical framework in an academic field. Literature plays a significant role in the formulation of research questions and prediction of possible relationships among variables.[290] As a sampling technique, this research uses relevance sampling which enables the researcher to choose those documents that will serve the research questions. In other words, the sample is composed of relevant texts that are needed to solve the analytical problem in question. Therefore, this method may also be called as "purposive sampling".[291] For this research, official documents issued by the Council of the EU and European Parliament as well as official speeches given by the EU Trade Commissioner Cecilia Malmström regarding CETA are analyzed in order to understand the positions of these actors towards the agreement. To determine the impact of the institutions on the final agreement, the main text of CETA is analyzed, either.

Before explaining the analysis step by step, brief information on the chosen methodology is given.

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[287] Holden, Neo-liberalism by Default.
[288] Siles-Brügge, Resisting Protectionism after the Crisis.
[289] Gastinger and Adriaensen.
[290] Hsiu-Fang Hsieh and Sarah E. Shannon, "Three Approaches to Qualitative Content Analysis", **Qualitative Health Research**, Vol. 15, No. 9, 2005, pp. 1281-1282.
[291] Klaus Krippendorff, **Content Analysis : An Introduction to Its Methodology,** Second Edition, Sage Publications, California, 2004, p. 119.

4.2.1. Content Analysis as a Research Methodology

Content analysis is a research method to analyze documents with the aim of demonstrating the focus of group or institutional attention as well as revealing trends in a communication content.[292] It is mainly conducted through counting many words and grouping them under fewer categories.[293] Why does counting matter? Weber's answer to this question is that it enables the researcher to compare the texts more precisely, especially if the objective of the research is to know how much more or less emphasis is given to some issues than to others.[294]

In a content analysis, before starting counting, the text should be organized based on some classifications. This starts with coding. Coding is a way of organizing the qualitative data in a systematic and manageable way for analysis. A code is defined as "a word or short phrase that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based or visual data."[295] Once codes are determined for the analysis, they are grouped together based on their similarities in order to develop broader 'categories'.[296] Category names may come from the textual data or may be borrowed from the literature.[297] Categories possess analytic power as they enable the researcher to predict and explain a phenomenon.[298] There should be consistency within and distinction between the categories.[299]

In the content analysis, there are various ways of coding documents. The selection of the method of coding depends on the nature and objectives of the research. The methodology can be inductive (buttom up), deductive (top down) or hybrid.[300] In the first approach, the themes are developed from the data

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[292] Robert Philip Weber, **Basic Content Analysis,** Second Edition, Sage Publications, California, 1990, p. 9.
[293] Weber, p. 12.
[294] Weber, p. 74.
[295] Johnny Saldaña, **The Coding Manual for Qualitative Researchers**, Second Edition, Sage Publications, London, 2013, p. 3.
[296] Saldaña, p. 8.
[297] Anselm Strauss and Juliet Corbin, **Basics of Qualitative Research,** Second Edition, Sage Publications, London, 1998, p. 115.
[298] Strauss and Corbin, p. 113.
[299] Catherine Marshall and Gretchen B. Rossman, **Designing Qualitative Research**, Second Edition, Sage Publications, London, 1995, p. 114.
[300] Saldaña, p. 65.

independently from the existing literature. In other words, the researcher's objective is to build a theory which is derived from the data. This methodology is the basis of the grounded theory developed by Glaser and Strauss.[301] In the deductive approach, on the other hand, based on existing theories, codes are defined before the collection and analysis of the data. It can be used to test hypothesis, thus also called as hypothesis coding.[302] Weber's content analysis is an important example of application of this method.[303] Similarly, in the directed content analysis, the researcher identifies the key concepts as initial codes by using an existing theory or literature review. Coding may be applied through either beginning with reading and highlighting the text to prepare it for coding or it may start immediately based on the pre-determined codes.[304] The researcher may revise or redefine the initial codes in the later stages of the analysis. Thus, coding and categorization is an ongoing process; the initial codes may be subsumed by other codes, codes and categories may be renamed or completely removed.[305] It is also possible to create new or hybrid coding methods or adapt the existing ones to meet the unique needs of the research.[306] If any ambiguity emerges related to the definitions of categories and words that are assigned to categories, some guiding sources such as dictionaries are used.[307]

Although content analysis is a qualitative methodological tool, it is possible to 'quantitize' qualitative codes for descriptive statistical analysis.[308] In this respect, Mayring claims that qualitative content analysis can be described as a mixed method approach.[309] While development of categories represents the qualitative stage, the analysis of the frequencies of the categories makes up the quantitative step. However, it is worth to note that quantification is not a defining element of content analysis. It is not a requirement to use numbers for getting valid answers, but it is a

[301] Barney G. Glaser and Anselm L. Strauss, **The Discovery of Grounded Theory: Strategies for Qualitative Research,** Aldine, 1967.
[302] Saldaña, p. 149.
[303] Weber.
[304] Hsieh and Shannon, pp. 1281-1282.
[305] Saldaña, pp. 11-12.
[306] Saldaña, p. 65.
[307] Weber, p. 25.
[308] Saldaña, p. 63.
[309] Philipp Mayring, **Qualitative Content Analysis: Theoretical Foundation, Basic Procedures and Software Solution**, Klagenfurt, 2014, p. 10.

convenient way of analyzing the textual data.[310] The quantitative indicators generated by content analysis help the researcher interpret and explain the findings through using the relevant theories.[311]

In quantification of the codes, mostly, frequencies are reported for each category.[312] It is also possible to value the codes on a scale, for example, 1=low, 2=medium, and 3= high.[313] These methods enable the comparison of the results by ranking as well as demonstration of differences among the emphasis of the documents. The highest frequency words represent the greatest concerns, but the researcher should always be careful to preserve the uniformity in the meanings and usages of the counted words.[314]

4.3. THE ANALYSIS OF THE DOCUMENTS

To be able to answer the research questions, the official documents issued by the Council and European Parliament, the EU Trade Commissioner Cecilia Malmström's speeches regarding CETA and the main text of the agreement were analyzed. For the Council, two negotiating directives adopted on 24 April 2009 and on 14 July 2011 as well as the statements from the Council and member states on CETA were coded. For the Parliament, 43 written questions regarding CETA were collected, 42 of which were submitted to the Commission and one to the Council by the MEPs between January 2013 and March 2014. Out of the 43 questions, only 25 were related with the hypotheses, so the remaining ones were not included in the analysis. Besides the written questions, one European Parliament resolution targeted at the Commission on 8 June 2011 on EU-Canada trade relations was also coded for the Parliament.

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[310] Krippendorff, p. 87.
[311] Weber, p. 70.
[312] Kristina M. Spurgin and Barbara M. Wildemuth, "Content Analysis", **Applications of Social Research Methods to Questions in Information and Library Science**, Second Edition, (Ed. Barbara M. Wildemuth), Libraries Unlimited, Santa Barbara, CA, 2017, p. 302.
[313] Saldaña, p. 63.
[314] Weber, pp. 51-52.

4.3.1. Determination of the Codes

As a first step, based on the literature on political economy of EU trade and the Union's official documents on trade policy, the initial codes for the analysis were predetermined. In this process, mainly, the EU's official trade strategy document "Trade for All"[315] was referred. According to the strategy defined by "Trade for All", while EU trade policy must deliver economic growth, create jobs and support EU companies and SMEs, it must also defend and promote such fundamental values as human rights, sustainable development, environmental, social and labor standards. The values and economic interests specified in this document were reiterated in several other official documents of the EU, as well.[316] The principles guiding the EU's economic interests have also a legal base in Article 21 in General Provisions on the Union's External Action of the TEU. In Article 22, it is stated that the strategic interests and objectives of the EU in its external action, which also comprises its common commercial policy, shall be based on the values referred in Article 21. Besides, Article 3(5) of TEU is a common provision referring to the values and interests of the EU which is applicable in all fields of Union's external action. As values and economic interests find a place both in the EU law and in the Union's contemporary trade strategy, CETA is naturally based on this strategy. In the specific context of CETA, European values are re-highlighted by the Commission in a factsheet titled as 'Standards and Values in CETA' which was published in September 2017.[317]

Based on the relevant concepts in above mentioned guiding sources, several initial codes were determined for the analysis. Keeping the predetermined codes in mind, the documents were read to grasp the general content of the data. Then, some sub-codes that would serve for the classification of codes were listed. The sub-codes, which seemed to be suitable with the research objectives, theoretical framework and

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[315] European Commission, Trade for All.

[316] For example, see European Commission, "Report on the Implementation of the Trade Policy Strategy Trade for All", **Trade**, 13.09.2017, https://op.europa.eu/en/publication-detail/-/publication/4f819c97-e3a6-11e7-9749-01aa75ed71a1, (07.11.2018); European Commission, "Strategic Plan 2016-2020", **DG Trade,** 22.12.2017, https://ec.europa.eu/info/sites/info/files/trade_sp_2016_2020_revised_en.pdf, (07.11.2018).

[317] European Commission, "Standards and Values in CETA", **CETA Factsheet**, 09.2017, https://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156061.pdf, (03.12.2018).

predetermined codes, were derived from the texts. The codes and their constituent sub-codes were several times revised and reshaped through re-reading. For example, improving labor and environmental standards serves by definition to the sustainable development objectives. However, since sustainable development, labor and environment are placed under different chapters in CETA, they were classified as three different codes. Similarly, EU companies and SMEs were kept separately in the analysis, because the EU also tends to do so in its official documents with a specific focus on supporting the SMEs.[318] Besides, the CETA Joint Committee has adopted a recommendation which is specifically on SMEs highlighting the significance of taking SMEs' needs into account to enable them to benefit from trade and investment opportunities in the implementation of CETA.[319] Yet another example is related with the codification of human rights and social and labor rights. Whereas social and labor rights are also considered as human rights, they were analyzed separately just as employed by the Commission's Handbook for Trade Sustainability Impact Assessment.[320]

At the end of the codification process, the codes were grouped under two categories labelled as values and economic interests (see Figure 4).

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[318] Based on the 'Think Small First Principle' highlighted in Small Business Act (2015), the EU aims to create a legislative and administrative environment within which SMEs' needs are placed in the forefront of EU policy making, including its trade policy.

[319] Government of Canada, "Recommendation 003/2018 of 26 September 2018 of the CETA Joint Committee on Small- and Medium-sized Enterprises (SMEs)", **Global Affairs Canada**, 26.09.2018, https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/rec-003.aspx?lang=eng, (23.02.2019).

[320] European Commission, "Handbook for Trade Sustainability Impact Assessment", Second Edition, **Trade,** 04.2016, https://trade.ec.europa.eu/doclib/docs/2016/april/tradoc_154464.PDF, (11.12.2017), p. 22.

Figure 4: Categories and Corresponding Codes

Values	Economic Interests
human rights	economic growth
social and labor rights	job creation
consumer rights	new market access opportunities
environmental standards	increasing competitiveness
health and food safety standards	supporting EU companies
sustainable development	supporting SMEs
corporate social responsibility	protecting and promoting innovation

4.3.2. Analysis and the Main Findings[321]

Once the framework for counting was ready, counting of the codes started for each document except the Parliament's written questions. For the written questions, following the method used by Gastinger and Adriaensen,[322] the number of questions corresponding to the codes was counted. For calculation of descriptive statistics, the codes were organized in Excel spreadsheets.

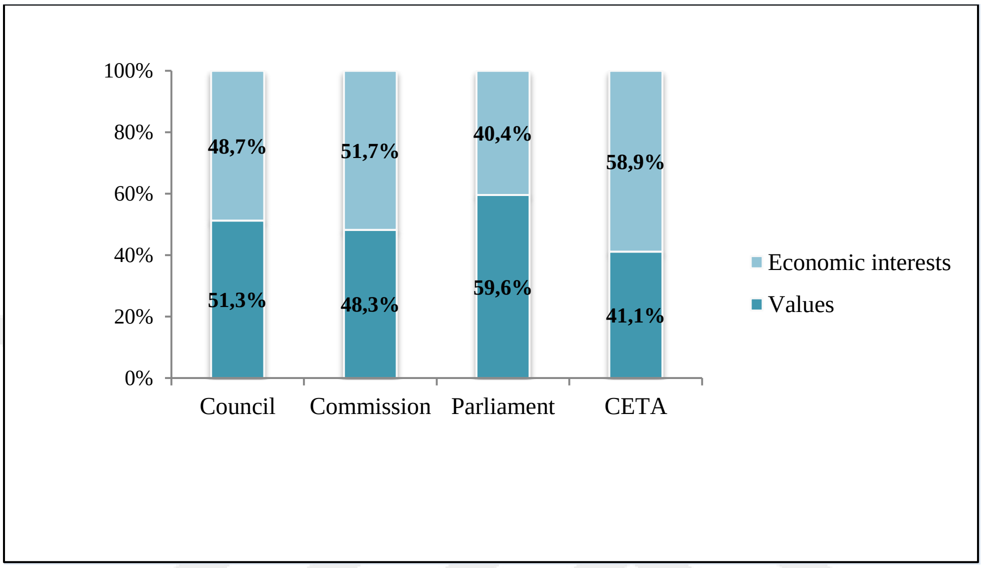
First, frequency distributions of the categories were calculated for each institution and CETA. As seen in the Figure 5, values are found as more salient than economic interests in the documents of the Parliament. Whereas values correspond to 59.6% of the total codes, economic interests make up 40.4%. While the values are slightly more emphasized than economic interests in the official documents of the Council, the situation is reversed when the Commission is considered. However, given the slight differences between the percentage levels of two categories for each of two institutions (2.6% for the Council and 3.4% for the Commission), it can be argued that both the Council and Commission show a relatively balanced position between the values and economic interests. Since CETA is a legal economic and trade agreement document, economic subjects naturally find a more prevalent place

[321] The main findings of this research which was funded by 2018-2019 Jean Monnet Scholarship Programme were published in Esra Uyar Okcu, Fabio Franchino and İ. Alper Arısoy, "The Role of EU Institutions in Common Trade Policy: An Assessment on EU-Canada Comprehensive Economic and Trade Agreement", **International Review of Economics and Management**, Vol. 7, No. 2, 2019, pp. 83-104.

[322] Gastinger and Adriaensen.

than values in the main text of the agreement. While 41.1% of the total codes is composed of values, 58.9% constitutes economic interests.

Figure 5: Distribution of Values and Economic Interests across EU Institutions and CETA



After calculating distribution of the categories, the codes were analyzed in order to determine EU institutions' interest intensity for each item. To be able to compare the salience levels of the codes across EU institutions and CETA, the highest number among all the codes belonging to each institution and CETA separately was divided into four equal intervals. Through this way, numeric values were transformed into four equally-sized bins from high (H) to moderately high (MH), moderately low (ML) and low (L). This was applied to each category. Then, all the codes were ranked according to their distribution in the main text of CETA from the highest to the lowest levels. The salience levels of codes in the category of values and economic interests are presented in Figure 6 and 7, respectively. The values and economic interests with high and moderately high salience levels are highlighted in the tables. As Figure 6 demonstrates, environmental standards, social and labor rights and health and food safety standards are the most emphasized values in the main text of CETA. The first two codes are common with the most salient values of all there EU institutions. In addition, health and food safety standards is another common item, this time finding a prevalent place in the documents of Council and in the main agreement.

Figure 6: Salience Levels of Codes in the Category of Values across EU Institutions and CETA

Values	Council	Commission	Parliament	CETA
environmental standards	**H**	**H**	**H**	**H**
social and labor rights	**MH**	**H**	**MH**	**H**
health and food safety standards	**H**	ML	ML	**MH**
sustainable development	**MH**	ML	L	ML
human rights	ML	ML	**MH**	L
consumer rights	L	**MH**	L	L
corporate social responsibility	L	L	L	L

Abbreviations: H – High, MH – Moderately High, ML – Moderately Low, L – Low.

Figure 7 shows the salience levels of codes within the category of economic interests. The most salient codes in CETA are found as supporting EU companies and protecting and promoting innovation. The first one is the only CETA item that is common with the most emphasized economic interest of the Commission. The second one, on the other hand, coincides with the most salient codes of both the Council and Parliament.

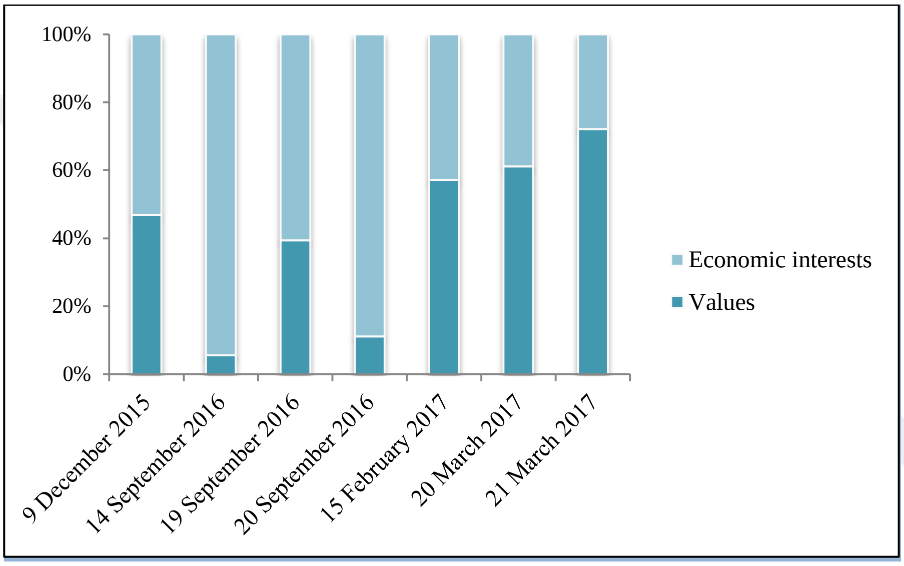
Figure 7: Salience Levels of Codes in the Category of Economic Interests across EU Institutions and CETA

Economic Interests	Council	Commission	Parliament	CETA
supporting EU companies	L	**H**	ML	**H**
protecting and promoting innovation	**H**	ML	**H**	**MH**
increasing competitiveness	L	L	ML	L
new market access opportunities	**MH**	ML	L	L
job creation	L	ML	L	L
economic growth	L	**MH**	ML	L
supporting SMEs	L	ML	L	L

Abbreviations: H – High, MH – Moderately High, ML – Moderately Low, L – Low

The findings of the analysis also revealed a changing pattern in the Commission's position across time. Until 20 September 2016, Malmström mostly focused on economic interests in her speeches. However, after that date, values became increasingly more dominant than economic interests in each following speech (See Figure 8).

Figure 8: Distribution of Values and Economic Interests across Time in the Speeches of Malmström



4.4. EVALUATION OF THE MAIN FINDINGS

4.4.1. Agent's Autonomy: Is it Limited by Principals?

The findings reveal that there are several issues that attract considerable attention of the Council and Parliament and they at the same time find a prevalent place in the main text of CETA. For example, in terms of values, environmental standards and social and labor rights are the most frequently highlighted issues both by the Council and Parliament. The Council also prioritizes health and food safety standards. All of these issues coincide with the main subjects handled in CETA. In terms of economic interests, protecting and promoting innovation is the mostly emphasized issue both by the Council and the Parliament. That is also reflected into the final agreement. Hence, both of the principals, the Council and the Parliament, are found effective in influencing the outcome of the CETA negotiations in line with their priorities and therefore the Commission's autonomy can be considered limited. These findings seem to be consistent with the results of the study conducted by Gastinger and Adriaensen[323] who found out that the Commission's discretion is constrained tightly by the Council and to a certain extent by the European Parliament in TTIP process.

When looked at the Commission's priorities within the scope of CETA negotiations, it is observed that as regards to values they do not significantly differ from the priorities of the principals. Most frequently emphasized values by the Commission and by the two principals are same: environmental standards and social and labor rights. They are both reflected into the agenda of the Commission and in the signed trade agreement. This can be read as the success of the Council's and the Parliament's efforts to add protection of European values into the agenda of EU trade policy. Especially the Parliament was a pioneer for inclusion of provisions on standards and values in EU's international trade agreements. The Parliament calls for EU trade policy "not to envisage trade as an end in itself, but as a tool for the promotion of European values and commercial interests and as an instrument for fair trade that can bring into general practice the effective inclusion and implementation of social and environmental standards with all EU trade partners".[324] It also highlights that EU trade agreements should contain specific chapters with enforceable provisions that support international conventions on social, labor and environmental standards and human rights.[325] Similarly, the Council calls for inclusion of provisions on sustainable development in all of the EU's international

[323] Gastinger and Adriaensen.
[324] European Parliament, "European Parliament Resolution of 25 November 2010 on Human Rights, Social and Environmental Standards in International Trade Agreements", 25.11.2010, https://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0434&language=EN, (08.12.2019).
[325] European Parliament, "Report on Harnessing Globalisation: Trade Aspects", **Plenary Sitting,** 12.10.2018, https://www.europarl.europa.eu/doceo/document/A-8-2018-0319_EN.pdf, (12.12.2019).

trade agreements and underlines the need for coherence between sustainable development, environment and trade policies.[326]

In terms of economic subjects, on the other hand, the findings indicate that the Commission's priorities are distinct from the principals' interests. Supporting EU companies and economic growth are the most significant subjects for the Commission that do not have anything in common with the principals' priorities. The Commission seems to be successful in affecting the final agreement in line with its top priority that is supporting EU companies. However, another economic objective, protecting and promoting innovation, which finds a significant place in CETA does not seem to attract considerable level of interest of the Commission. Rather, it ranks at the top of the interests of both the Council and the Parliament.

Yet another finding is related with a potential joint effect of two principals on restricting the Commission's autonomy and influencing the final agreement. Whenever the Council and the Parliament have high levels of interest in a common subject, that subject finds a prior place in the main text of CETA. If an issue represents a priority for only one of the principals, it is barely reflected in the agreement. For example, sustainable development and new market access opportunities representing the most significant subjects highlighted by the Council alone are not that much handled in CETA. According to principal-agent approach, heterogeneous interests among multiple principals enable the agent to exploit these differences and to keep its autonomy.[327] Thus, similar preferences among principals may help increase their ability to alter the Commission's position in line with their interests and finally affect the policy outcomes.

4.4.2. The European Parliament: Its Position and Impact on CETA

The findings reveal that the Parliament highlighted values more than economic interests within the context of CETA negotiations. Thus, the Parliament is found to be a value-oriented institution. Rather than emphasizing on the economic

[326] Council of the European Union, "The EU and Responsible Global Value Chains", **Council Conclusions,** 12.05.2016, http://data.consilium.europa.eu/doc/document/ST-8833-2016-INIT/en/pdf, (15.12.2019).
[327] Pollack, Delegation, Agency, and Agenda Setting, p. 112.

advantages of a free trade agreement, it prefers to underline the significance of protecting and promoting EU values and standards for European people. This can be explained by the Parliament's role as the representative of European public concerns, as the only EU institution elected directly by European citizens. With the inclusion of "behind the border" trade issues in the Commission's trade agenda, debates on their potential effect on individual liberties and environment became widespread across Europe. In order to response these concerns and to make the voice of people heard in trade policy, the European Parliament started to organize open debates in the Parliament and increased the ways through which the MEPs could interact with civil society.[328]

In effect, it is difficult to grasp a clear stance of the European Parliament in trade policy since MEPs are not required to follow the positions of their political groups. Yet, in general, the Parliament shows a moderate stance about supporting free trade. It is more concerned and cautious than Commission, especially about protection of individual freedoms and social and environmental standards. By frequently calling for inclusion of provisions on human rights and sustainable development in EU's international trade agreements, "Parliament has contributed to making trade policy more 'normative'; i.e., serving other foreign policy goals than trade".[329]

What about the Parliament's impact on CETA? For this research, it was expected that the Parliament, as a value-oriented institution, would influence the normative parts of CETA more than the material parts. The findings indicate that the Parliament was successful in affecting both the normative and the material parts of the agreement. As regards to the normative dimension of the deal, two of the priorities of the Parliament - environmental standards and social and labor rights - coincide with the most frequently handled subjects in CETA. Since at least one value that attracted high level of interest by the Parliament found a significant place in the

[328] Marika Armanoviča and Roberto Bendini, "The Role of the EP in Shaping the EU's Trade Policy After the Entry into Force of the Treaty of Lisbon", **Directorate-General for External Policies Policy Department,** 07.2014, https://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522336/EXPO-JOIN_SP(2014)522336_EN.pdf, (08.05.2019), p. 4.

[329] Armanoviča and Bendini, p. 21.

final agreement, it can be argued that the Parliament was successful in influencing normative parts of the CETA.

Yet another value highlighted by the Parliament is human rights. This finding is consistent with the Parliament's role in supporting the inclusion of legally binding human rights clauses with a mechanism for monitoring and implementation in all trade and sectoral agreements.[330] Yet, this value did not find a considerable place in CETA. This may be explained by a recent change in EU policy regarding the inclusion of human rights clauses in trade agreements. Since 1995, the EU trade and cooperation agreements had been comprising human rights provisions. If a party violated these provisions, it would lead to suspension of the agreement partially or entirely.[331] In 2009, this policy was changed and a new approach was adopted. Based on this approach, trade agreements started to be connected to a human rights clause in a parallel agreement signed between the same parties.[332] This method was also applied to CETA. The CETA does not contain a human rights clause; instead, it was included in the EU-Canada Strategic Partnership Agreement, which was signed between EU and Canada simultaneously with CETA. In this agreement, for the actions to be taken in case of violation of human rights, a direct reference was made to termination clause in CETA.

The findings of the analysis also indicated that the Parliament was effective in influencing not only the value-related but also economic interest-related parts of the agreement. Its economic priority which is protecting and promoting innovation found a significant place in CETA. Salience of this issue for the Parliament may result from its recent practice related with the approval process of ACTA. As mentioned in the third chapter, ACTA is an international agreement on the enforcement of intellectual property rights. It was signed by the EU, 22 member states and some other countries such as Japan and the US. The agreement triggered public resentment due to its provisions related with the right of privacy and other spheres of individual freedom. Thus, the Parliament denied giving consent to ACTA by using its formal power to

[330] European Parliament, European Parliament Resolution of 25 November 2010.
[331] European Commission, "Human Rights", **Bulletin of the European Union,** Vol. 5, 1995, p. 9.
[332] Lorand Bartels, "Human Rights, Labour Standards and Environmental Standards in CETA", **University of Cambridge Faculty of Law Legal Studies Research Paper Series,** No. 13, 2017, p. 9.

reject an international agreement for the first time.[333] When the Parliament rejected ACTA, the negotiations for CETA were still ongoing and the official text of CETA had not been released yet. However, the leaked text revealed that many of ACTA provisions were incorporated to the CETA. Although the Commission argued that the leaked text was the old version of CETA, controversial and non-transparent nature of negotiations was sufficient to keep the subject of innovation alive both for the European public and the European Parliament. Through the parliamentary questions directed to the European Commission for written answers, the Parliament mainly questioned the similarities between the intellectual property provisions of ACTA and CETA and raised its concerns related to the compatibility of intellectual property chapter with the EU Charter of Fundamental Rights. According to the Parliament, intellectual property rights is “one of the driving forces of innovation and creativity and a key contributor to competitiveness, employment and cultural diversity”,[334] but it also highlights that innovation should go hand in hand with the protection of human rights and freedoms.[335]

In short, as consistent with its role of representing European public in the EU institutional setting, overall, the Parliament prioritized values over economic interests in CETA negotiations. When looked at the distribution of preferences in terms of values, its priorities coincided with mostly handled values in CETA. As the mostly referred economic subjects by the Parliament and CETA also overlap, it can be argued that besides the normative dimension, the Parliament also affected the material dimension of the agreement.

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[333] Armanoviča and Bendini, p. 14.
[334] European Parliament, “Intellectual Property Rights: An EU Action Plan”, 2015, http://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/provisoire/2015/06-09/0220/P8_TA-PROV(2015)0220_EN.pdf, (05.04.2019).
[335] European Parliament, “Impact of International Trade and EU’s Trade Policies on Global Value Chains”, 2017, http://www.europarl.europa.eu/doceo/document/TA-8-2017-0330_EN.html, (17.05.2019).

4.4.3. The Council of the European Union: Its Position and Impact on CETA

The findings indicate that the Council is slightly more oriented towards values than economic interests. Its priorities in terms of values are environmental standards, health and food safety, social and labor rights and sustainable development. All of them excluding sustainable development found a significant place in CETA. Actually, it has played a role in affecting every normative subject that was considerably handled in the main text of the agreement. Similar to the Parliament, it was also successful in influencing the economic parts of the agreement particularly the provisions regarding innovation.

As the Council represents the member states whose interests and priorities may differ from each other, it may be difficult to talk about a unique position of the Council towards trade policy. However, in general, member states tend to be more restrictive to comprehensive economic integration agreements than the Commission because the governments are responsible to their electors.[336] It is this responsibility that makes them relatively more cautious about potential negative effects of trade agreements. As the Council puts forward, therefore, trade policy should not only be ambitious but also responsible. There should be a balance between realizing economic objectives and protection of standards. In this context, member states try to maintain a balance between the Commission and their citizens. Ministers in the Council seek for a decision that would maximize the advantages for the EU and at the same time minimize the disadvantages for their own countries.[337] To give an example, while the Council emphasizes the role of innovation in increasing EU's competitiveness and economic growth, it also highlights the serious impacts of intellectual property infringements on public health and safety.[338] Thus, fundamental values cannot be threatened at the expense of economic benefits of a trade

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[336] Kurt Hübner, Anne-Sophie Deman and Tugce Balik, "EU and Trade Policymaking: the Contentious Case of CETA", **Journal of European Integration**, Vol. 39, No. 7, 2017, p.845.

[337] Council of the European Union, "The European Council and The Council: The House of the Member States", 01.2018, https://www.consilium.europa.eu/media/33114/2016-8008_en_web.pdf, (14.06.2019), p. 15.

[338] "Council Conclusions on the EU Customs Action Plan to Combat IPR Infringements for the Years 2018 to 2022", **Official Journal of the European Union**, 21.01.2019, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0121(01)&rid=9, (18.07.2019).

agreement. The EU trade agreements should protect such European standards as human, social and consumer rights, sustainable development, protection of environment and health.[339] This attitude was also observed in the context of CETA and TTIP negotiations when ministers from 12 member states wrote a letter to Cecilia Malmström calling for "a trade policy that also stands up for workers' rights, the environment, people's health and … democratic space".[340]

Given the differences of national interests and priorities, member states' expectations regarding a trade agreement may naturally diverge. CETA is not an exception to this. CETA negotiations were surrounded by intense debates led by divergent interests and preferences of the member states. As explained in third chapter in detail, due to its discontent about investment provisions, Walloon region of Belgium made its signature of CETA conditional upon the opinion to be taken from the CJEU on the compatibility of the investment chapter with the EU law. On the other hand, France wanted to be clear about the compatibility of the agreement with its national law. In order to prevent signing of CETA by the German government, German people who were concerned about protection of environment, consumer and labor rights applied to the German constitutional court. Nevertheless, at the end 'collective interest' on signing CETA became dominant in the Council. Thus, the negotiation process was completed successfully and the agreement was signed by the two parties. The outcome was satisfying not only for the Commission which executed and successfully finalized the negotiations but also for the member states since they made their preferences heard and accepted to a certain extent; Council's declarations and member states' statements regarding their specific interests and positions found a place in a document attached to the CETA. Moreover, an interpretative and clarifying document on controversial subjects was also signed and incorporated to the agreement.[341]

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[339] Council of the European Union, "EU's Trade and Investment Policy - Council Conclusions", **Outcome of Proceedings**, 27.11.2015, http://data.consilium.europa.eu/doc/document/ST-14708-2015-INIT/en/pdf, (18.07.2019).

[340] "Letter to European Commissioner for Trade", 14.09.2016, http://www.astrid-online.it/static/upload/lett/lettera-malstrom_14_09_16.pdf, (27.03.2019).

[341] "Joint Interpretative Instrument on the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union and its Member States", **Official Journal of the European Union**, 14.01.2017, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22017X0114(01)&from=EN, (12.11.2018).

To sum up, the Council exhibited slightly more-value oriented profile than economic interest-oriented one. Overall, it played a balancing role in CETA negotiations between the material and normative objectives of the Union. Its impact has been observed in both of the dimensions of the final agreement.

4.4.4. The European Commission: Its Position and Impact on CETA

The results of the analysis demonstrate that the Commission's position is slightly more economic-interest oriented than value-oriented in the context of CETA negotiations. Its main priority which is supporting EU companies corresponds with the most frequently referred subject in CETA. Thus, it can be argued that the Commission has managed to affect the material dimension of the agreement. The focus on EU companies is a prominent feature of speeches of Malmström. She specifically touches upon the benefits that CETA provides for companies. This can be expected given the fact that CETA is a trade deal aiming for improved market access for firms which is the fundamental objective of any trade agreement.[342] The Commission had already defined the main aims of CETA with economic and commercial terms. It specified the main objectives of the agreement as enhancing trade and investment between the trading partners to ensure economic growth.[343] The aim to boost economic growth was also observed as one of the most significant economic subjects referred by Malmström in her speeches.

Contrary to the expectations, the Commission was also found successful in influencing the normative parts of CETA. Mostly highlighted values by the Commission, which are environmental standards and social and labor rights, found a significant place in the final agreement. The Commission's position with respect to the normative dimension of the agreement can also be noted in its proposal for a Council decision to conclude CETA. In this proposal, the Commission underlines the importance of connecting trade agreements to the overall objectives of the Union

[342] European Commission, "Guide to the Comprehensive Economic and Trade Agreement (CETA)", **Trade**, 07.2017, http://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156062.pdf, (14.06.2018), p. 7.
[343] European Commission, "CETA – Summary of the Final Negotiating Results", **Trade**, 02.2016, http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc_152982.pdf, (12.06.2018), p. 1.

related with labor, environment and climate change. Moreover, it highlights the incorporation of specific chapters on Trade and Sustainable Development, Trade and Labor and Trade and Environment to CETA.[344] In her speeches, Malmström attempts to connect the economic benefits of CETA to its advantages for workers, consumers and environment by giving specific firm examples. For instance, when she talks about financial benefits of CETA for Pranarôm International, she additionally states that the agreement would secure its consumers' rights. Alternatively, a possible market expansion of Reclay would contribute to spreading its recycling practices to other companies and public institutions.[345]

The findings of the analysis also revealed some changing patterns in the Commission's position across time. While in the earlier stages of the negotiations, Malmström mostly referred to the economic interests, after 20 September 2016, values became dominant in her speeches (See Figure 8). The time of the change corresponds to the period just after the signing of the agreement by Canada and the EU. Following the signature of CETA on 30 October 2016, the agreement was presented to the European Parliament for the process of approving. On 15 February 2017, Malmström appealed to MEPs in the Parliament just before the start of voting on CETA. With an intention of getting Parliament's consent, she gave a motivational speech by referring issues that are sensitive for the Parliament. In her speech, the Trade Commissioner tried to persuade the MEPs that CETA would not threaten or lower European standards. Malmström continued to keep this tone in her speeches in the following months. Since CETA is a mixed agreement, each member state has to ratify it before the treaty can come into force. Depending on the national procedures, ratification process is administrated by parliamentary vote or referendum. Because the governments are accountable to their citizens and in the event of a referendum, every voter would have a chance to affect the fate of the agreement, the Commission may have felt the need to persuade the European public that CETA would not risk

[344] European Commission, "Proposal for a Council Decision on the Conclusion of the Comprehensive Economic and Trade Agreement between Canada of the One Part, and the European Union and Its Member States, of the Other Part", COM(2016) 443 final, 05.07.2016, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:0443:FIN, (12.06.2018).

[345] Cecilia Malmström, "CETA - An Effective, Progressive Deal for Europe", **Speech in Civil Society Dialogue Meeting,** 19.09.2016, http://trade.ec.europa.eu/doclib/docs/2016/september/tradoc_154955.pdf, (02.07.2018).

European standards. Hence, speeches delivered by Malmström began to concentrate progressively more on values than economic interests. In her own words with respect to CETA, "The debate in Europe shows that people are concerned about what trade means for standards, values and public services. These are concerns we need to address and explain. We need to explain that there is no lowering of standards, no compulsory privatization".[346] This finding coincides with the results of a recent study showing the shift of the Commission's language towards a more accommodating tone with more focus on European standards in its approach to TTIP opponents.[347]

In brief, although the Commission was found slightly more economic-interest oriented than value-oriented, it tried to keep a balance between two groups of objectives. In the period following the signature of the agreement, a change in its position with relatively more emphasis on protection of values was observed. As the main actor having executed the CETA negotiations, the Commission has managed to influence both the value- and economic interest-related parts of the agreement in line with its priorities, although its focus on the normative issues emerged mostly as a response to concerns raised by other institutions.

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[346] Cecilia Malmström, "The Opportunities of EU-Canada Trade", **Speech to the Munk School**, Toronto, 20.03.2017, http://trade.ec.europa.eu/doclib/docs/2017/march/tradoc_155446.pdf, (12.06.2018).

[347] Patricia Garcia-Duran Huet and Leif Johan Eliasson, "Supporters' Responses to Contested Trade Negotiations: The European Commission's Rhetoric on the Transatlantic Trade and Investment Partnership", **Cambridge Review of International Affairs**, Vol. 30, No. 5-6, 2017, pp. 503-504.

CONCLUSION

The main objective of this dissertation was to investigate the roles played by the European Commission, Council of the European Union and the European Parliament in common trade policy. To be able to analyze their impact on a concrete policy outcome, a new generation trade agreement, CETA, was chosen to be examined. The proliferation of new generation trade agreements is a recent phenomenon in the world trading system. Traditional free trade agreements which are mainly based on tariff liberalization began to be replaced by deeper and more comprehensive deals following the inclusion of "behind the border" issues in global trade agenda in late 1980s. Since GATT became insufficient to handle these new subjects, WTO was founded in 1995 to respond newly emerging needs in international trade. However, several deadlocks in multilateral negotiations that followed the establishment of WTO such as the one in Doha Development Round raised once again questions about the effectiveness and strength of global trade governance. This paved the way for proliferation of regional and inter-regional trade links among states and regions for faster and further liberalization of trade and investment. Strengthening of multinational corporations and spread of their business facilities across different states also contributed to this process. As a result, deep and comprehensive trade agreements started to become a common feature of current trade system.

As one of the main trading blocs of world trade network, the EU has also adopted its trade policy according to the needs and developments in the global economy. Based on the demands of business sector, it created a network of bilateral and plurilateral agreements including but not limited to such issues as services, investment, public procurement, intellectual property rights etc. Since these issues are sensitive for both states and citizens in terms of their impacts on regulatory policies and individual liberties, they raised concerns even among the people in Europe who were not that much responsive to trade matters before. One of the main responses of the EU to address these challenges was to increase the legislative power of its only directly elected institution, the European Parliament, in trade policy making. This was followed by adoption of a new strategy, Trade for All, to make its trade policy serve not only for the material interests of the Union but also for protection and promotion of European values.

Within the given framework, this dissertation aimed to analyze the impact of the EU's main institutions, the Commission, Council and Parliament, on a new generation trade agreement signed between the EU and Canada, i.e. CETA. In EU institutional setting, the Commission is the main actor in the implementation of trade policy. The Council and the Parliament share the legislative power. A free trade agreement can be signed and concluded by the EU if both of these institutions approve it. If it is a "mixed agreement" covering fields that fall under the competence of both the Commission and the member states, it must be ratified also by the member states. In order to explain the dynamics of this inter-institutional relationship in commercial policy, this dissertation selected a principal-agent approach. According to this approach, during negotiations of an international trade agreement, the Commission, as the agent, enjoys some sort of autonomy within the given mandate by the Council as the principal. The European Parliament, as the other principal, aims to affect the Commission's actions through parliamentary resolutions and questions for written answers. In this setting, it is the Commission that possesses technical expertise and information which enables it to maintain its discretion to a certain level during the negotiations. However, if the principals show interest in several subjects within the scope of negotiations and make an effort to affect the final agreement in line with their preferences, the autonomy of the Commission may be constrained. Hence, this dissertation examined whether the Commission's autonomy was restricted by the Council/member states and/or the Parliament in CETA process. To determine the extent to which agent's autonomy is restricted, the levels of interest in various issues by principals were analyzed through a content analysis. The issues that fall under the scope of CETA were categorized based on a differentiation between values and economic interests. The reason for this choice is to reflect the main rationale of the EU's contemporary trade strategy, Trade for All, on a concrete trade policy outcome. Based on this categorization, it was aimed to determine the positions of each institution towards CETA in terms of value- and economic interest-orientation. It was expected that each institution would affect the final agreement in line with its orientation.

Findings revealed that besides the European Commission, the Council/ member states and the Parliament also play a significant role in EU trade policy. As their priorities in terms of the scope of CETA negotiations were considerably reflected in the final agreement, it can be argued that the Council and Parliament managed to affect the CETA and thus the Commission's room of maneuver was constrained during the negotiations. This was especially observed when the two institutions' priorities coincided with each other.

A detailed examination of the background of CETA negotiations also supported the finding that the Commission's actions were limited by the Council/ member states and the Parliament to a certain extent. Several controversial issues created disagreements among the EU institutions and some of them served as stumbling blocks to the negotiation process. They were mainly related with competence issues and potential effects of the agreement on national sovereignties and individual liberties. For example, when the CETA text on the intellectual property rights was leaked and it was understood that the provisions of CETA were quite similar to that of ACTA which had been previously rejected by the European Parliament, the Commission had to assure the Parliament and the public that CETA did not contain controversial ACTA provisions. Moreover, there were also disagreements between the Parliament and the Commission regarding the investment chapter of CETA. On this issue, the European Parliament expressed its concerns through a resolution and European public revealed its discontent through a web-based consultation. Several member states were also not supporting the Commission's position related to the investment chapter. Based on the concerns related with ISDS clauses, Germany attempted not to sign the agreement. Together with France, it called on Commission to change the ISDS provisions. Thus, the Commission proposed a new system for ongoing and future agreements to replace ISDS mechanism. Whereas CETA negotiations had formally ended, the proposal was also included in the finalized CETA text. Yet, discussions on the investment chapter did not come to an end. In order to get the approval of Walloon region to sign CETA, Belgium made its signing of the agreement conditional upon the opinion to be requested from the CJEU on the compatibility of the CETA's investment provisions with the EU law. This compromise together with several other statements and declarations of the member states and the Council on some controversial issues was made an annex to the CETA. Besides, an explanatory document was also added to the agreement to serve for clarification of these issues.

In addition to determine whether and to what extent the Council/member states and the Parliament constrain the Commission's discretion, this dissertation also aimed to analyze the political-economic positions of the three institutions for a deeper understanding of their roles in EU trade policy. Within the context of CETA negotiations, the Parliament was found as a value-oriented actor as expected. The Council also tends to be value-oriented, while the Commission was found as slightly more economic-interest oriented than value-oriented. It is worth to add that compared to Parliament's position, the Commission and Council displayed relatively balanced positions in terms of political economy. The expectation that each actor would affect the agreement in line with its orientation was partly supported. Although the impact of each institution on CETA was in line with their orientation, it did not exclude the other dimension of the agreement. Put differently, all of the three actors influenced both the normative and material parts of the agreement independent of their political-economic orientation. For example, although the Parliament was found as a value-oriented institution, it also influenced the CETA's provisions regarding innovation.

In terms of the distribution of preferences, the priorities of the institutions mostly converged with each other as regards to the values. All of them showed a considerable interest in environmental standards and social and labor rights that naturally emerged as the most frequently referred values in CETA. Whereas this could be expected for the Council and Parliament, it was also observed for the Commission. This may be related with the change of Commission's position towards a softer tone with more reference to European values as a result of proliferation of public protests across Europe and as a response to concerns raised by other institutions. Given the requirement of the approval of both the Council and Parliament at the end of the negotiations, the Commission tended to add these issues into its agenda especially when they started to be raised more frequently by these two institutions. As regards to the economic interests, on the other hand, the Commission's priorities diverged from the preferences of other institutions. While the Commission's priority was supporting EU companies, the Council and Parliament emphasized on protecting and promoting innovation. Despite the differences, the final agreement reflected the priorities of all actors. Thus, within the specific context of CETA, which is the EU's most comprehensive free trade agreement signed with a highly industrialized country, it can be said that EU institutions played complementary roles in determining the overall position of the EU towards a neoliberal policy outcome, despite harsh debates on new generation trade agreements in the public, among the MEPs and in member states' governments. Both the Council and the Parliament seemed to be questioning the Commission's position on several sensitive issues and managed to amend it to a certain extent. However, at the end of the day, by giving official consent to CETA, they played complementary roles in supporting EU's neoliberal economic orientation in implementation of its inter-regional trade policy.

By using a new methodology combining principal-agent approach with political economy, this dissertation traced the impact of EU institutions on a free trade agreement signed with a developed country. While previous studies analyzed the institutions' interests by disaggregating free trade agreements' chapters[348], this dissertation goes one step further by categorizing the subjects covered by CETA from a political-economic perspective. Through this way, it also goes beyond the existing literature of political economy of EU trade which has been to a certain extent limited to EU's commercial relations with developing countries. In addition, it sheds light on how the policy rationale behind the EU's Trade for All strategy is projected on a recent and concrete policy outcome. Moreover, this study also incorporated the preferences of the European Parliament in the analysis that has been ignored by studies in EU trade policy literature for a long time as the Parliament's role in trade policy making was historically restricted.

Given the interpretive nature of coding, this dissertation may raise questions regarding its objectivity. This issue is a prominent question in the realm of qualitative methodology. To be able to increase the validity of the study, several steps were followed in this research. First, the coding process was guided by a theory and relevant EU official documents. Besides, the opinions of more than one scholar

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[348] See, for example, Gastinger and Adriaensen.

within the research field were applied for the determination of the codes. To increase explanatory power of the findings, they were discussed together with the information gathered from international, European and state agency news as well as official documents of the EU, Canada and the member states. Although the findings of this dissertation are not easily generalizable across other policies of the Union due to several peculiarities related to EU's trade policy making, they provide some insights for a broader perspective for EU-multilevel governance. On the other hand, in order to discover whether these findings may hold in different negotiation contexts, similar studies examining other new generation trade agreements, such as the EU-Singapore Free Trade Agreement, can be conducted. The future studies may also test whether a similar research would yield different results in a more asymmetric context such as in an EU-developing country trade relationship. This would also pave the way for comparative studies examining institutional dynamics in EU's external trade policy.

Last but not least, the focus of this dissertation on the differentiation between values and economic interests in EU trade policy seem to be nowadays more important given the social and economic consequences led by Covid-19 pandemic. With the emergence of the pandemic, protecting fundamental freedoms and standards such as human health and labor rights on the one hand, and keeping production and economic growth sustainable on the other hand exerted unprecedented pressure on governments. Suspension of production activities and disruptions in global supply chains negatively affected international trade and economy. To fight the pandemic, restrictive and protective measures gained a momentum in the world trade. Thus, liberalism debate once again became a hot issue in trade politics. In today's world economic order marked by new threats to free trade and by rise of alternative competitors like China that pose a challenge to the western-oriented neoliberalism, it would be even harder for the EU to realize its ambitious trade objectives without sacrificing its values.

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