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## The Promise of Critical Historical Institutionalism for EU Trade Policy Analysis

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## Abstract

This paper aims to convince the reader of the potential of a critical version of historical institutionalism (HI) as a theoretical perspective for EU trade policy analysis. It argues that critical HI sensitises the analyst to important but hitherto often neglected factors including: the influence of the past on EU trade policy; the complex, multiarena and multilevel nature of contemporary trade policy; and issues of distributional conflict. The core concept in critical HI is 'reactive sequencing', conceiving of policy evolution as a chain of events produced by reactions and counter-reactions. This paper demonstrates that this is invaluable to understand contemporary EU trade politics. Some examples of EU trade policy decisions and its general strategic evolution since the conclusion of the Uruguay Round are given to show the value of critical HI. Finally, the external dimension of "Europe 2020" as the latest trade policy strategy is analysed from a critical historical institutionalist angle.

## Keywords

EU trade policy; critical historical institutionalism; reactive sequencing; new trade politics

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Can the European Union (EU)'s trade policy response to the crisis be explained solely by interest group competition (liberalism), decision-making procedures (rational functionalism) or even a combination of both? Similarly, can a combination of *contemporaneous* variables as openness of the EU economy or dominance of free trade-oriented member states explain why the EU has not resorted to trade instruments to protect and promote its ambitious unilateral climate change policies? This article argues that in both, and many other, instances of new trade politics the answer is: no. We can understand current EU trade policy positions only by taking into account the influence of past policies and ideas. Thus, this article will advocate a critical variant of historical institutionalism as an approach to EU trade policy.

Nonetheless, EU trade policy research is overwhelmingly dominated by rational choice analyses. The Common Commercial Policy and particular decisions within the domain are mostly described or explained using one or more of the following rational choice perspectives: principal-agent; interest-group pluralism; and/or three level games (for an overview see Dür and Zimmermann 2007). These rational choice approaches share some inexpedient characteristics: they are a-historical (by focusing on synchronic causality<sup>1</sup>, see also Howlett 2009: 242) and to a large extent a-political (by focusing solely on limited inter-interest group competition and/or inter-institutional conflict). By conceiving of EU trade policy as a function of the interaction between the member states and the Commission (and third states; as in principal-agent and three level game analyses) and/or exporters and import-competing interests (in pluralist accounts) they are incapable to grasp the dynamics of the "new trade agenda"<sup>2</sup>.

This paper argues that a critical (or dynamic) historical institutionalist (HI) perspective has much potential to enhance our understanding of contemporary EU trade policy. Critical HI distinguishes itself for its attention to: the influence of the past on present EU trade policy processes; the complex, multiarena and multilevel nature of contemporary trade policy; and issues of distributional conflict. The distinguishing characteristics of critical HI will be further elaborated and explained in the next section. Subsequently, it will be shown how this perspective allows us to better understand EU trade policy decisions and its general strategic evolution since the conclusion of the Uruguay Round. In the final section, the EU's most recent trade strategy as outlined in the Commission Communication 'Trade, Growth and World Affairs' (also dubbed 'the external dimension of Europe 2020') is analysed from a critical historical institutionalist angle.

## THE DIFFERENCE CRITICAL HISTORICAL INSTITUTIONALISM MAKES

Historical institutionalism is a school of thought characterised by great internal diversity. The same goes for the other new institutionalisms (at least rational choice institutionalism and sociological institutionalism, while other neo-institutionalisms have been proposed; see Peters 2000), so that the lines dividing them may blur (Hall and Taylor 1996: 955-957) and it becomes difficult to assign concrete institutionalist analyses unequivocally to one of the schools. Consequently, it is also impossible to give an uncontested summary of the core assumptions and concepts of historical institutionalism.

Political scientists sometimes undeservedly reduce HI to the concept of “path dependency” (see the discussion in Peters et al. 2005). This is an enduring legacy (pun intended) of the fact that the historical institutionalist school in political science, like its rational choice nephew, has been adopted from the economics discipline. Economists explaining technological choice and evolution (David 1985; Arthur 1994) and institutional/developmental evolution (North 1990) have emphasised how an initial choice may become “locked in” through various “positive feedback” mechanisms (increasing returns, learning effects, coordination effects and adaptive expectations; Arthur 1988 in Pierson 1993). In the writings of Paul Pierson (e.g. 2000), probably the most famous intellectual father of historical institutionalism in political science, the “path dependence” of politics via the mechanism of increasing returns (or self-reinforcing or positive feedback processes) is indeed the most important concept of historical institutionalism – although in one of his earliest essays on the theory (1993) he also discussed very pertinently *inter alia* the possibility of counter-mobilisation and the interpretive effects of public policies including negative learning. Later, Pierson rejected the usefulness of such a broad definition of path dependence that states that ‘we cannot understand the significance of a particular social variable without understanding “how it got there” – the path it took. Previous events in a sequence influence outcomes and trajectories but not necessarily by inducing further movement in the same direction. Indeed, the path may matter precisely because it tends to provoke a reaction in some other direction’ (Pierson 2000: 252). The narrower conception of path dependence Pierson proposes instead, namely that preceding steps in a particular direction induce further movement in the same direction, has induced the criticism on historical institutionalism that it is preoccupied with explaining inertia while being unable to account for institutional and policy change and that it has a structural tendency that neglects agency (Peters et al. 2005). As Kathleen Thelen (1999: 385) has rightly noted: the positive feedback model is both too contingent in explaining initial choices (as “determined” by chance or by “critical junctures” exogenously produced) and too deterministic after the initial move when the path narrows mechanically. While these criticisms are not undeserved for what may be called the “conservative” branch of historical institutionalism that is confined to positive feedback processes, it is an unjust reproach for the more “critical” or dynamic approaches (Hay and Wincott 1998, Thelen 1999, Daugbjerg 2009, Howlett 2009, Ackrill and Kay 2009) that I will build on in the rest of this paper.

The central argument of historical institutionalism that is shared by all its disciples is that “policies create politics”. Implied in this statement, and of course in the theory’s label, is that “history matters” and “institutions [broadly defined to include policy decisions] matter”. Policies create politics means that a policy decision may restructure subsequent political configurations through effects on the resources, incentives and (normative and cognitive) perceptions of actors. In the critical version, this effect or feedback may run in different directions, in other words may be positive as well as negative. Feedback moreover has various dimensions: it may be material/structural or ideational, and it may be functional (where the presence of certain institutions raise the returns to the presence of complementary ones, as in the varieties of capitalism or worlds of welfare state literature; see Hall and Soskice 2001; Esping-Andersen 1990) or distributive. Viewed in

this way, a better encompassing concept for the various ways the past influences present politics than “path dependence” is “reactive sequencing”. This conceives of policy evolution as ‘a chain of events linked through reactions and counter-reaction’ (Daugbjerg 2009: 407). As Thelen phrases it:

‘(p)olitics is characterized by disagreement over goals and disparities in power, and in fact institutions [or policy decisions] often reinforce power disparities ... However the losers do not necessarily disappear, and their adaptation can mean something very different from embracing and reproducing the institution (or decision) ... For those who are disadvantaged by prevailing institutions (or policies), adapting may mean biding their time until conditions shift, or it may mean working within the existing framework in pursuit of goals different from—even subversive to—those of the institution’s (policy’s) designers’ (1999: 285-286).

From this short summary may be extracted some of the distinguishing elements of critical historical institutionalism. First, its central tenet and the unique selling proposition of HI in general is of course that “history matters”. *Contra* synchronic analyses that base explanations on prevailing variables at a specific point in time (whether interest group resources interacting with political opportunity structures as in neoliberal society-centred analyses or the international security or economic structure as in state-centred analyses) it draws attention to how decisions are influenced by institutions and past decisions. Second, by adopting a non-functional view of institutions, it alerts us of the distributional origins and consequences of institutions and past policy decisions. Third, its non-parsimonious epistemology and attention to the complex, multiarena and multilevel interaction of policy decisions allows us, *in casu* with regard to trade policy, to move beyond the superseded limited focus on conflict between exporters and import-competing interests and/or between member states and the Commission that still permeates the EU trade policy literature but is unsuited to provide insight into the “new trade politics”.

On a more abstract, meta-theoretical level, the critical version of historical institutionalism has a distinctive social ontology. As rational choice institutionalism conceives of action as determined by a “logic of consequences” applied by rational self-interested actors constrained in their course by prevailing institutions, and sociological institutionalism sees action as determined by a “logic of appropriateness”, both are prone to a tendential structuralism (Hay and Wincott 1998). Historical institutionalism, by contrast, ‘is characterized by a particular concern with contingency and the unintended consequences of strategic action and with a focus on the path dependency of institutional change’ (Hay and Wincott 1998: 952). *Actors* are perceived as ‘strategic, seeking to realize complex, contingent and often changing goals. They do so in a context which favours certain strategies over others and must rely upon perceptions of that context which are at best incomplete and which may very often reveal themselves inaccurate after the event’, while *institutions* are ‘understood less as functional means of reducing uncertainty, so much as structures whose functionality or dysfunctionality is an open – empirical and historical – question’ (Hay and Wincott 1998: 954). This social ontology opens up the possibility for conceiving of change as ‘the consequence (whether intended or unintended) of strategic action (whether intuitive or instrumental), filtered through perceptions (however informed or misinformed) of an institutional context that favours certain strategies, actors and perceptions over other’ (Hay and Wincott 1998: 955). The central role of ideas and discourse is apparent. While structures empower and constrain agents, this influence is always dependent on how agents interpret structures, which is mediated by discourse. Because of this centrality of discourse Vivien Schmidt has recently proposed to label analyses that share these assumptions and that emphasise the role of ideas as constitutive of institutions as well as shaped by them “discursive institutionalism” (Schmidt 2010a; 2010b).

Let us now explore in the next section how the critical historical institutionalist approach may enhance our understanding of recent EU trade policy.

## **RECENT EU TRADE POLICY EVOLUTION IN A CRITICAL HISTORICAL INSTITUTIONALIST PERSPECTIVE**

While historical institutionalism has hitherto rarely been applied to EU trade policy, some of our prevailing thoughts on and most profound insights into this policy domain are rooted in its ideas. One of the pioneering and most widely cited analyses of EU trade policy, Brian Hanson's "What happened to fortress Europe?" (1998), is historical institutionalist in all but name. In this article the author asks why the expectation that with the completion of the single market in 1992 the EU would adopt a "fortress" external trade policy (opening trade internally, while building a wall against goods from outside) has not materialised. His argument is that the new institutional context created by the "Europe 1992" project and the Single European Act (SEA) in particular created a systematic bias toward liberalisation over increased protection. For the ability of member states to adopt national trade restrictions had been greatly undermined, while EU voting rules made it very difficult to replace national protectionist measures at the EU level. Indeed, Hanson's account illustrates nicely how a "snapshot analysis" is unable to explain liberal EU trade policy in the mid-1990s. In this period, Europe was confronted with severe recession and record levels of unemployment. Mainstream pluralist theories would predict that this would induce import-competing firms to lobby for and receive protection(ism). Also state-centred analyses that focus on the relationship between the member states and the Commission would not expect external liberalisation in that period. The expectation was that with abandoning sovereignty over intra-European trade-restrictive measures, member states would want to compensate by imposing extra-European protectionist instruments. The tensions between the Commission and the member states at the end of the Uruguay Round epitomised by the "Blair House Agreement" and the European Court of Justice's 1/94 opinion are illustrative. The historical institutionalist nature of Hanson's analysis is well captured by his own conclusion: '[r]ather than being the product of intentional manoeuvring for advantage, the external trade consequences of the SEA provide striking evidence of how decisions taken at one time can have profound effects on future events by shifting institutional rules under which policy is made' (Hanson 1998: 74).

While Hanson argues that they are insufficient to explain liberal EU trade policy in the 1990s, societal and state-centred factors may contribute to our understanding *if* they are also put in a temporal, dynamic perspective. The completion of the single market has reduced the importance of "national champions" as the most successful firms have adopted pan-European strategies. However, this should not lead automatically to a liberal external trade policy as these firms could as well have subsequently preferred a fortress Europe. But this is where agency and political conflict comes in. As van Apeldoorn has shown (2000; 2002), within the European Round Table of Industrialists (ERTI) indeed two rival projects were competing for hegemony: a neoliberal and a neomercantilist project. In the end, a globalist fraction consisting of Europe's most globalised firms got the upper hand within the ERTI at the expense of a Europeanist fraction made up of enterprises primarily serving the European market. van Apeldoorn argues that '(w)ith regard to ERT's strengthened free trade orientation, the crucial battle was probably that over the conclusion of the Uruguay Round of the GATT trade talks (in December 1993), which in retrospect probably signalled the final defeat of the "Europrotectionists", both within the Round Table and the European capitalist class more widely' (2000: 171). This has subsequently allowed the ERTI (by virtue of its enhanced material and ideological power) to contribute to the neoliberal transformation of the European order, where the increasingly hegemonic concept of "competitiveness" would become the central "social purpose" of European governance.

The Uruguay Round is indeed another important event in the recent sequence influencing EU trade policy. As argued in the previous section, critical historical institutionalism emphasises that institutions and policies are not mere coordination mechanisms but that they reflect, reproduce and magnify particular patterns of power distribution in politics, i.e. have distributional causes and effects (Thelen 1999: 394). To understand the importance of the Uruguay Round for subsequent EU trade (and internal market) policy it is important to underscore the different context of trade policy-making at the time. Trade policy was then still largely the exclusive domain of trade officials in the European Commission and the member states that coordinated with their “clients” consisting of the biggest exporters. Trade policy was hardly politicised, except for agricultural matters where a special institutional arrangement guaranteed the involvement of agricultural policy-makers. The uncontroversial sphere in which traditional trade policy could be conducted was the product of the “embedded liberalism” era of the first three decades or so after the Second World War (Ruggie 1982). The dismantlement of tariffs and quota (at-the-border-barriers) did hardly or not impact (in a negative manner) on the daily lives of citizens as this international liberalism was accompanied by, and put at the service of, national policies directed at domestic social stability and progress. However, the Uruguay Round went significantly beyond traditional trade policy with agreements on *inter alia* trade in services and intellectual property rights. But the most important innovation for the present discussion was the introduction of agreements disciplining national discretion to adopt health, (food) safety, and environmental regulations: the Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Agreements. The reformed Dispute Settlement Mechanism (DSM) implied that these new rules could more easily be enforced. Also the ill-fated Organisation for Economic Cooperation and Development (OECD) negotiations on a Multilateral Agreement on Investment (MAI) that sparked fears about excessive loss of sovereignty by national governments led to a politicisation of trade policy (see Walter 2001).

This “new trade agenda” has galvanised new actors to become active in trade policy: consumer and environmental non-governmental organisations (NGOs), parliaments and non-trade agencies (Young and Peterson 2006: 800-802). New trade policies thus created a new trade politics. As a long-time member of the Trade Policy Committee (former “Article 113/133 Committee”) observed in the late 1990s: ‘(t)he Article 113 Committee mechanism coped effectively on the whole with the extension of the Uruguay Round trade debates into services, TRIPs and (to a lesser extent) investment: these were all essentially economic issues. For a number of years the Committee has acted as a focal point in the Community for discussion of trade and (...) issues, but it is clear that increasingly the broadening of the “trade” element of the international agenda into such widely different areas of policy stretches to the limit the established mechanisms for *analysis* and coordination of trade policy’ (Johnson 1998: 57, emphasis added).

An important reason for the politicisation of trade policy and the exponential increase in interest by environmental and consumer groups has been the *coincidence* of multiple events and decisions shortly after the conclusion of the Uruguay Round and the establishment of the WTO. The decision of some (industrialised) countries to immediately after the conclusion of the Uruguay Round proceed with negotiations on liberalisation of services and, especially, pursue a Multilateral Agreement on Investment mobilised a diverse anti-globalization movement that culminated in the “Battle of Seattle”. Within the EU, in the second half of the 1990s, several European countries were confronted with food health crises and regulatory failures (Vogel 2003; Neyer 2005). The most important and consequential was without doubt the outbreak of the “mad cow disease” (or bovine spongiform encephalopathy, BSE in short) in 1996. In the middle of this food safety crisis, the EU lost a dispute initiated by the US and Canada at the WTO concerning its ban of the use of hormones in meat and meat products. Because of the suspicion among EU consumers in that period, the EU was unable to comply with the ruling by withdrawing the ban. In 1999 both the Council of Ministers and the European Parliament declared that consumer protection needed highest priority and consequently

the ban would not be lifted. Both institutions requested the Commission to henceforth put the “precautionary principle” more central in all its activities that touch upon consumer protection. In the beginning of 2000 the Commission indeed published a Communication on the precautionary principle. In this context, also the EU policy on genetically modified organisms became much more restrictive. As a contemporary news article stated: ‘(m)any observers argue that members of the public would be less concerned about the prospect of eating vegetables containing genetically modified organisms (GMOs) if they had not previously been terrified by the thought that their beefburgers might have been contaminated with a fatal disease’ (Coss 1999). Different authors have rightly argued that these events have urged the European Union to try to get their stringent food safety and other regulatory frameworks recognised and adopted at the global level (Falkner 2007; Kelemen and Vogel 2009; Poletti and Sicurelli 2012). Stringent regulation, for example resulting from food crises, inflicts competitive disadvantages on European firms that will consequently support the international harmonisation of regulations at the stringent EU-level to level the playing field (Vogel 1995; Princen 2002). Attempts to get the precautionary principle explicitly recognised in the framework of the WTO are also inspired by the Union’s concern to avoid sentence at the WTO (Poletti and Sicurelli 2012). The sequence in which things happen affect how they happen: it is not implausible to reason counterfactually that had the food crises of the second half of the 1990s happened during the Uruguay Round, the SPS and TBT negotiations would not have been negotiated in the depoliticised atmosphere (Skogstad 2001) that they were and the resulting agreements would maybe not have gone that far<sup>3</sup>.

The preoccupation of European politicians with food safety and health protection, the negative impact of WTO rules as revealed by the hormones dispute and the general anti-globalization sentiment among the European public at the closing of the millennium allowed and incited the then new Trade Commissioner Pascal Lamy to make ‘managing globalisation’ the highest mantra of his term (Lamy 1999, 2004; Abdelal and Meunier 2010). While this doctrine has been explained by others as a largely tactical move, packaging member states preferences in a way that allowed the EU to enter into a new multilateral trade negotiations round while simultaneously inviting developing countries (Van den Hoven 2004; Meunier 2007), I interpret it here as a more genuine reaction to the previous sequence of events relating to food safety and health protection and the WTO’s assault on the EU’s hormones ban. At the end of his term, Lamy in a personal fashion proposed to introduce a new safeguard clause in the WTO based on collective preferences defined as ‘the end result of choices made by human communities that apply to the community as a whole ... Such choices are rooted in the cultural and religious values and traditions of the country in question, and are also determined by political considerations, historical factors and the level of development’ (Lamy 2004: 2). This contradicts enormously with the EU’s ambition in the mid-1990s to use the new WTO Agreements and the DSM to pry open foreign markets, in the words of then Trade Commissioner Sir Leon Brittan: ‘(w)e are going on the offensive, using our trade powers forcefully but legitimately to open new markets around the world’ (1996). At the end of Lamy’s term, however, food safety and consumer and environmental protection in general had again descended on the EU’s priority list<sup>4</sup>. Partly this can be explained by the fact that the precautionary principle and regulatory reforms had quickly restored the confidence of the European public in European regulations and regulators (Löfstedt 2004). But also significantly, as Neumayer (2004: 4) and Oberthür and Gehring (2006: 26) have noted with regard to the international level, the WTO agreements confronted EU actors with a “strategically selective” (Jessop 2007) institutional context so that proponents of environmental and consumer protection always have to operate ‘in the shadow of the WTO’. And finally, this is also to a large extent due to the definitive ascent in the beginning of the 2000s of a new goal as the finality of socio-economic governance, namely “competitiveness”, which had been pushed upwards on the EU agenda by the ERTI since the beginning of the 1990s as explained above.

Indeed, at the Lisbon Summit of 2000 the “new strategic goal” of the European Union was defined as ‘to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth and better jobs and greater social cohesion’ (European Council 2000: 2). While in this formulation competitiveness is placed at equal height with social cohesion and sustainable development, already in the Lisbon Agenda social cohesion was defined subordinately ‘in terms of the adaptability of the labour force to the exigencies of competitiveness in a globalized world economy’ (van Apeldoorn 2009: 29). When the first five years of the implementation of the Lisbon Agenda disillusioned, the incoming Commission President José Manuel Barroso made the revival of the programme his top priority and in 2005 Lisbon was relaunched under the Orwellian label “Growth and Jobs Strategy”. Several observers noted that this involved the explicit prioritisation of competitiveness over social cohesion and environmental sustainability.

This priority shift also impacted on the EU’s trade strategy. In October 2006 the then new Trade Commissioner Peter Mandelson presented the Commission’s new strategy “Global Europe” that was explicitly framed as the EU trade policy’s ‘contribution to the EU’s growth and jobs strategy’ (European Commission 2006). While mostly this Communication has been heralded as a U-turn in EU trade policy because of the announcement of new preferential trade agreements and thus doing away with Lamy’s moratorium, another, more subtle, twist is as if not more notable, especially with regard to the present paper. The central tenet of the communication becomes clear from the first page: ‘(a)s globalisation collapses distinctions between domestic and international policies, our domestic policies will often have a determining influence on our external competitiveness and vice versa’ (European Commission 2006: 2). This induced Hay to the apt commentary that competitiveness is used in a tautological way: ‘trade liberalization, it seems, is good for competitiveness, because without it there is likely to be less pressure for European business and service providers to prove their competitiveness internationally’ (2007: 31). Thus, trade policy is used to put pressure on European economies to engage in structural reforms as contained in the Lisbon process: ‘trade liberalization renders the – at this point, still *contingent* – Lisbon agenda *necessary* ... in so doing it depoliticizes it’ (Hay 2007: 32, emphasis in original). In the next section, I will discuss the latest EU trade strategy.

What has been discussed so far is also reflected in the evolution of “trade and ...” policies *within* the European Union. Starting around the middle of the 1990s when with the 1995 enlargement the EU as a whole was on the path to become the most important export destination in the world, and the EU had already overtaken the US as the most stringent regulator of health, safety and environmental risks (Vogel 2003), the EU became a confident “regulatory exporter”. Especially the 2000s witnessed EUphoric accounts about ‘why Europe will run the 21<sup>st</sup> century’ (Leonard 2005). Thanks to its market power (Damro 2012) it was supposed to be able to assert significant “power through trade” (Meunier and Nicolaïdis 2006). Until around the mid-2000s it is noticeable that European regulators and politicians themselves were quite confident that third country firms and governments would accommodate to European risk regulations because of Europe’s market power. To cite an example, when the European Commission published its proposal for a new chemical safety regime REACH, an accompanying staff document cushioned competitiveness concerns by stating the following:

‘As far as exports are concerned, there will be a potential risk of some loss of market share if prices of domestically produced chemicals are forced up due to REACH. This namely holds for cases where competitors exist on third markets that totally neglect the important European market. Indeed, it would be only these companies that would completely escape the REACH legislation and its testing and registration requirements and costs associated to this. In the longer run, the balance of impacts on competitiveness on these third markets as well as on the European market will also depend on the extent to which the REACH



regime is successful in establishing itself as a new international standard. This would give the EU chemicals industry a substantial boost in terms of international competitiveness' (European Commission Staff 2003: 22-23).

However, this confidence would melt away soon, as competitiveness concerns – prompted by the supposed underperformance of the European economy vis-à-vis both American productivity and dynamism and emerging economies' cost advantage that was also the underlying rationale of the Lisbon Strategy– trumped international regulatory ambitions or "managing globalization". For example, in a Commission Staff Document on 'the external dimension of the single market review' one can read '(i)n many areas ... the EU is looked upon as a regulatory leader and standard-setter. *However the international context is changing rapidly*' (2007: 2, emphasis added). This line of reasoning has become even more apparent in the most recent "Single Market Act". Whereas in the 2007 document there were still references to 'a window of opportunity to push global solutions forward' (European Commission Staff 2007: 8) and the single market as 'a tool to foster high quality and standards' (European Commission Staff 2007: 5), in the 2010 document the single market is presented as a "base camp" that allows European companies to prepare themselves better for international competition and the conquest of new markets. This makes it all the more important to guarantee our internal and external policies are coherent and complementary' (European Commission 2010a: 17). The different rationale is obvious: the starting point is no longer European (regulatory) preferences that can be diffused internationally through the EU's power through trade, but the imperative of global competition that forces the EU to lessen the burden on European companies.

Indeed, as I argue elsewhere more extensively (De Ville 2012), the combination of the imperative of competitiveness (having become the EU's highest priority since the Lisbon Declaration) and the ability of free trade supporters to use the disciplining SPS and TBT Agreements as a "rhetorical device" had an impact on the outcome of two of the most important EU regulatory decisions of the first decennium of the 21<sup>st</sup> century: REACH and the Emissions Trading Scheme as part of the climate and energy package. In both cases, the European peak associations of the regulated industries dominated by transnational firms succeeded in significantly watering down the regulations by the twin, complementary arguments of competitiveness and WTO-compatibility.

A final example of how historical institutionalism can enhance our insight into EU trade policy (evolution) is the European Union's trade policy response to the Great Recession. While a recession of this scale would lead us to expect recourse to protectionism, exactly the opposite has happened. The EU has advocated, and put into practice, further trade liberalisation –both bilaterally and multilaterally<sup>5</sup> – as a way out of the crisis. As I have argued elsewhere (De Ville and Orbie 2011, 2013) this represented a successful framing strategy by the European Commission to continue its neoliberal trade strategy as frankly presented in Global Europe. But this strategy could only be so easily pursued because it was not opposed, and even supported by, other conditions and actors. As Rodrik has noted in general (2009) also the institutionalisation of free trade within the WTO, the powerful underlying configuration of political interests in favour of open trade and the existence of safety nets for workers all have contributed to the prevention of protectionism in contrast to what happened in the 1930s during the Great Depression. Again, as with the refutation of the "Fortress Europe" expectation in the 1990s, we can understand the EU's trade policy strategy after the crisis only through a critical historical institutionalist lens.

This overview of the evolution of the recent strategic orientation of EU trade policy and some trade (and ...) policy decisions has already illustrated the way in which EU trade policy is influenced by the multilevel and multiarena interaction of: a) intra-European socio-economic events, decisions and societal mobilisation; b) earlier EU trade policy decisions including institutionalised agreements at the WTO; and c) (expectations about) evolutions in the global economy. In the following section I analyse the most recent EU

trade strategic communications "Trade, Growth and World Affairs" in a critical HI perspective.

## **TRADE, GROWTH AND WORLD AFFAIRS IN A CRITICAL HISTORICAL INSTITUTIONALIST PERSPECTIVE**

Just like Global Europe was presented as 'a contribution to the EU's growth and jobs strategy', the Communication on the trade strategy of the Commission Barroso II is presented as 'a core component of the EU's 2020 strategy' (European Commission 2010b). "Europe 2020" has been criticised from different sides as being a mere continuation of the disappointing Lisbon Strategy. While some important differences are introduced to the procedural dimension (more focussed targets, stricter follow-up and enforcement through, inter alia, the "European Semester") the content and rationale are very similar. Rather than questioning the appropriateness of the Lisbon Strategy, the credit/economic/sovereign debt crisis starting in 2007 has been interpreted by European leaders as underscoring the need for reform of European socio-economic governance along Lisbon Strategy lines. In the Commission's own words: 'Europe's structural weaknesses have been exposed (...) Even before the crisis, there were many areas where Europe was not progressing fast enough relative to the rest of the world' (2010c: 7).

Consequently, it should come as no surprise that also Trade, Growth and World Affairs is to a very large extent a reiteration and thus continuation of Global Europe. The underlying rationale is essentially the same: '(t)he over-riding aim of European economic policy is faster growth ... Trade raises EU growth by fostering our efficiency and innovation ... This agenda will confront us increasingly with the interface between our internal rules and external liberalization and ... we need to "*further enhance the coherence and complementarity between the EU's internal and external policies as a whole*"' (European Commission 2010b: 4, emphasis in original). It can even be derived that the impression of the imperative of competitiveness of European firms has further been amplified by the belief that future economic growth in Europe is dependent on exports towards emerging economies<sup>6</sup>. However, there is a small but remarkable shift in the discourse of Trade, Growth and World Affairs as compared to Global Europe and that is the emphasis that is placed on reciprocity: 'for an open trade policy in Europe to succeed politically, others – including both our developed and emerging partners – must match our efforts, in a spirit of reciprocity and mutual benefit ... The EU will remain an open economy but we will not be naïve' (European Commission 2010b: 4). Thus, the EU's trade policy has become a bit less "Schumpeterian" (as aptly coined by Adriaensen and Kerremans 2010) and a bit more mercantilist. While it is difficult to point to the precise reasons for this shift in discourse, a plausible explanation is the growing unease with China's trade and especially monetary policies. Such concern has already led to a facilitating reform of the rules to adopt anti-dumping duties, the third such "protectionist" reform in fifteen years' time<sup>7</sup>, and to a proposal for a new international public procurement instrument (European Commission 2012).

## **CONCLUSION**

This paper has attempted to persuade the reader of the promise of a critical historical institutionalist perspective for EU trade policy analysis. It has started by explaining the distinguishing features of critical HI, namely its sensitivity to: the influence of the past; the distributive origins and effects of institutions and policies; and the complex, multiarena and multilevel nature of contemporary politics. Consequently, it has presented how major EU trade (and ...) policy decisions since the Uruguay Round (and

the Single European Act) are temporarily interlinked. Finally, it has analysed the most recent EU trade strategy in such a historical institutionalist perspective.

The empirical analysis demonstrated the merit of the “reactive sequencing” concept for understanding EU trade policy. It has been argued that every major trade policy evolution since the Uruguay Round has been a reaction or counter-reaction to past trade policies. Or, and this might be a contribution of this article to the historical institutionalist literature, an anticipation to expected trends, as when the EU became less assertive in exporting its environmental standards because it ruled that ‘the international context is changing rapidly’, making the adoption by third countries of EU regulation less likely. Trade policy decision-making does not operate each time in a neutral vacuum. To the contrary, it is influenced by policies, institutions and ideas from the past that benefit some actors over others, through dissimilar effects on their resources, incentives and perceptions.

It is argued that very significant trade policy decisions from the recent past confront other perspectives on EU trade policy with significant difficulties, especially the (most prevalent) rational choice approaches among them. Most notably, two periods of crisis (reappearance of high unemployment in the mid-1990s and, much more severely, the prolonged recession following the financial-economic crisis starting in 2007) have not resulted in protectionist reflexes. However, rational choice approaches, rooted in public choice paradigms, would expect concentrated import-competing groups to prevail over diffuse consumer and exporter groups, and protectionist politicians and member states over free trade oriented ones, in such crises. I argued that they fail to take into account the reconfiguration of interests, ideas and institutions after the Uruguay Round. A second example, is the way the nexus between trade and environment and consumer protection has unfolded the past two decades. Again, any attempt to explain any such decision (e.g. REACH) as an isolated case would fail. We can only understand the outcomes by incorporating in our analysis past policies (and failures), (perceptions of) constraining WTO Agreements, as well as the dominance of the competitiveness frame since the Lisbon Agenda.

I end with a cautionary –or self-critical– note. This paper has tried to show that parsimonious synchronic causality explanations of EU trade policy are inappropriate in today’s complex world. On the other hand, the perspective presented here may be vulnerable to the critique that it is not able to *explain* anything, merely to pointing out with anecdotal evidence the relationship between trade (“and ...”) policy decisions over time and between different policies of Europe’s socio-economic governance (especially between single market policy and EU trade policy). In philosophy of science terms this problem that in this approach every decision can be linked to a previous one *ad infinitum* is called “infinite regress”. However, following other authors (especially Hanson and van Apeldoorn) the historical account of EU trade policy presented here did not start with the Single Market program (1985-1992) and the Uruguay Round (1986-1994) without reason. This period has been a (non-exogenous) critical juncture in Europe’s socio-economic evolution, and EU trade policy in particular, without which all that follows cannot be fully understood.

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<sup>1</sup> Providing “snapshot explanations” of present social outcomes by the value of current variables (Pierson 2000: 263).

<sup>2</sup> An interesting observation is that also in the economics discipline (often the source of theoretical innovation in political science) the last three decades or so have witnessed a move away from

neoclassical trade theory to the “new trade theory” (Krugman 1991, 1996), implying a change from assuming decreasing returns to increasing returns, or path dependence models (Pierson 2000).

<sup>3</sup> As anecdotic evidence for such counterfactual claim: in 1999 a Member of the European Parliament declared during the hearing of then incoming Trade Commissioner Pascal Lamy ‘the Delors Commission (...) accepted the rules and arrangements for settling disputes within the WTO, which subsequently enabled the United States win the infamous disputes over bananas and hormone meat’ (in Abdelal and Meunier 2010: 356-357). In the case of multilateral investment rules a very similar story but with a different sequence resulted in a different outcome: the Ethyl dispute between the Canadian government and the US firm Ethyl Corporation under the NAFTA investment rules that erupted during the MAI negotiations rallied NGOs against these negotiations effectively derailing the talks (Walter 2001: 62-63).

<sup>4</sup> As Löfstedt (2004: 251-252) shows on the basis of data compiled by the Weinberg Group the precautionary principle has been omnipresent in European policy documents until 2002. In that year a significant drop is noticeable.

<sup>5</sup> While it has also unilaterally not made more use of trade defence instruments than in normal times.

<sup>6</sup> ‘By 2015, 90% of world growth will be generated outside Europe, with a third from China alone ... So in the years to come, we need to seize the opportunity of higher levels of growth abroad, especially in East and South Asia. Developing and emerging countries are likely to account for nearly 60% of world GDP by 2030. This is compared to less than 50% today’ (European Commission 2010b: 4).

<sup>7</sup> After the last reform, antidumping duties proposed by the Commission can only be vetoed by a qualified majority of member states. Previously, since the 2004 change, a blocking simple majority was required. Between 1995 and 2004 a simple majority in support was required for the imposition of anti-dumping duties while before 1995 a qualified majority had to be found in favour. An important reason for the most recent reform is reportedly that the Commission and a majority of the member states feared that China would otherwise be able to devise a divide-and-rule strategy to prevent anti-dumping sanctions (interview with Belgian diplomat, January 2011). It is probably also no coincidence that the imposition of anti-dumping duties have been made more easy in 1995 and 2004, coinciding with a “liberal” and “big bang” enlargement respectively, complicating the adoption of antidumping measures. This again suggests that EU trade policy (rules) indeed reacts to internal (*in casu* enlargements) and external (*in casu* Chinese ascent) events.

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