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**TRADING PLACES: THE NEW DYNAMICS OF EU
TRADE POLICY UNDER THE TREATY OF LISBON**

JENNIFER HILLMAN AND DAVID KLEIMANN

G | M | F The German Marshall Fund
of the United States
STRENGTHENING TRANSATLANTIC COOPERATION



David Kleimann
European University Institute
Department of Law

David.kleimann@eui.eu

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Objectives

- Enhance foreign trade experts and policy makers understanding of changes in EU trade governance after Lisbon Treaty enactment in December 2009
- Prevent another episode similar to the first EP vote on the SWIFT agreement in February 2010:
 - MEP Hennis-Plasschaert: “It is clear that the way the Council, but also the United States authorities , have been treating the European Parliament is just unacceptable.”
 - MEP Martin Schultz: “The U.S. administration may have wrongly thought they could deal with the European Parliament like Gulliver with the Lilliputians”



EU Trade Governance before Lisbon Treaty

- Straightforward and well rehearsed institutional interplay between the European Commission and Council of Ministers
 - Commission proposes trade negotiation directives and framework legislation and implements trade policy in negotiations and public administration
 - Council of Ministers amends and adopts Commission proposals for negotiation directives and trade policy regulations
 - Art. 133 Committee: In closed door sessions, EU member state trade bureaucrats instruct Commission trade bureaucrats on directions in trade negotiations
- Residual Member States Competences in sensitive services sectors
 - Mixed Agreements: Trade agreements covering services, investment, and trade related IPR require MS parliamentary approval

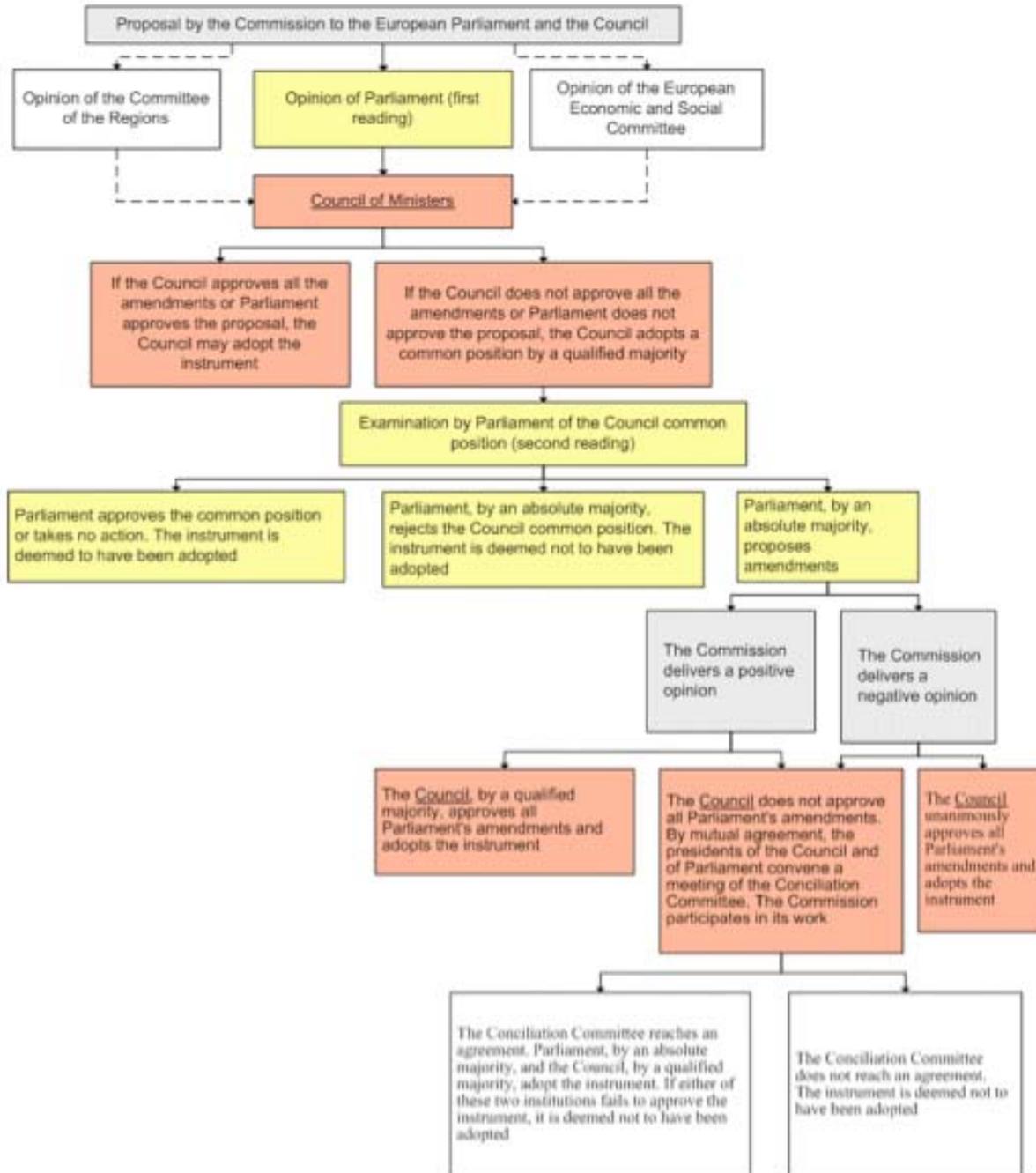
EU Trade Governance Post Lisbon

- Broad Consolidation of EU competences on Trade Policy
 - Investment, services, and IPR negotiation and regulation now EU competence
 - Exceptions: audiovisual, education, health, and social services (sensitive sectors)
 - What will happen to MS bilateral investment treaties? New EU model BIT? Recent Commission proposal on investment
- Common Commercial Policy now formally subject to EU principles of External Action
 - No changes expected in the short run
- Empowerment of the European Parliament on CCP and CAP
 - Framework Legislation and Consent to Trade Agreements

On Par with the Council: The EP's Role in Framework Legislation

- All EU domestic legislation implementing EU trade policy now subject to co-decision procedure
 - After Commission tables legislative proposal, Council and EP INTA Committee have to agree on single piece of legislation
 - Trade barrier regulation; trade defence instruments (AD and safeguards); EU unilateral trade preferences (GSP, GSP+, EBA); investment
 - If no agreement on legislation after two 'readings', Commission functions as mediator in 'Conciliation Committee'
 - Example in EU - Korea agreement: Safeguard clause subject to current negotiations between Council and EP
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Co-decision procedure



No time limit

First reading -----

3 months
(+1 month)

Second reading -----

3 months
(+1 month)

Conciliation Committee -----

6 weeks (+2 weeks)

Third reading -----

The EP and the Council shall each have 6 weeks (+2 weeks) to adopt an act

Adoption of Trade Agreements: The Role of the EP

- EP votes 'yes' or 'no' on trade agreements with trading partners after....
 - Commission has negotiated the agreement on the basis of negotiation mandate adopted by the Council
 - Council has adopted the agreement and authorized signature
- EP influence on objectives and scope of negotiations despite lack of formal role? Yes!
 - EP has many opportunities to inform Commission and Council of political preferences and 'red lines' (opinions, resolutions, hearings...)
 - Commission is required to report to INTA on progress in negotiations
 - Consent procedure and co-decision on implementing legislation: leverage of EP political preferences! EP cannot be ignored
- Provisional Application of trade accords: EU – South Korea agreement precedent? The 'Italian Deal'
 - No provisional application of trade agreements before EP consent and adoption of implementing legislation

Political Preferences of the EP

- Hard to generalize, but following 'collective action' rationale:
 - Short election cycles: MEPs not interested in selling long term and broad economic welfare benefits
 - Immediate welfare gains and prevention of losses in local constituencies: Protectionism and Consumer Protection
 - EU - Korea Safeguard demands (regional application; investigation initiation by MEPs)
 - Pakistan flood assistance preferences
 - GSP redesign ('preferences for those who really need them')
 - 'Interest' in specific AD cases
 - EU – MERCOSUR FTA: agriculture negotiations
 - Food Safety standards
 - Biotech products
 - Promotion of 'non-commercial' values that appeal to European constituencies: 'trade and' issues
 - Human rights (e.g. Colombia FTA)
 - Environment (e.g. Border Tax Adjustment)
 - Sustainable Development (e.g. EPAs and GSP)
 - Animal welfare (e.g. ban on seal products)

Challenges due to EP Involvement

- Co-Decision Procedure: Cumbersome and time consuming decision-making process
- Adapting to new realities:
 - Capacity constraints on the side of the INTA Committee (expertise, human resources)
 - Threat of defensive EP attitude vis-à-vis Commission and Council
 - Commission, Council, and MEPs have to increase public relations initiatives in order to gain political support for policy objectives
 - Council has to adapt to reality of institutional competition
- Politicisation of EU Trade Policy: Following the US into stalemate?
 - Political challenges are somewhat similar to the U.S.
 - Opening the floodgates for special interest advocacy?
- Predictability and Constancy of EU trade policy at odds?

Opportunities due to EP Involvement

- Narrow the gap between public political preferences and actual EU trade policy
 - Anti-globalization sentiments and economic crisis require the replacement of the free trade paradigm to gather broad public support for freer trade
 - EP involvement forces Commission, Council and EP to enter into an institutional competition for best policy responses to contemporary challenges
 - Develop new broad political rationale for EU Trade Policy
 - Gather political support by creating public debate on Future of EU Trade Policy
 - EP as the key to enhanced coherence among EU external policies, including trade, agriculture, development, and security?
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Conclusions

- EP involvement opens the door to a new era of EU Trade Policy making
 - Process
 - Public discourse
 - Policy Directions
- Critical that all parties involved, whether in Europe or abroad, recognize new realities and seek the opportunities
- Many tasks ahead:
 - GSP rollover legislation
 - Pakistan flood assistance preferences
 - Colombia FTA adoption
 - EU – Morocco Agriculture Market Access Agreement
 - EU Investment strategy
 - Future of EU Trade Policy definition

Thank you!

David.kleimann@eui.eu

