

**SPECIAL ISSUE** The New Washington Consensus and the Changing Landscape of International Economic Law and Policy

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# New Frontiers in EU Trade Policy: Moving Beyond Conventional Trade Agreements

Niall Moran<sup>1,2</sup> 

<sup>1</sup>School of Law and Government at Dublin City University, Dublin 9, Ireland | <sup>2</sup>DCU Brexit Institute, Dublin 9, Ireland

**Correspondence:** Niall Moran ([niall.j.moran@dcu.ie](mailto:niall.j.moran@dcu.ie))

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## ABSTRACT

As the rules-based international trading system faces stagnation and increasing unilateralism, the European Union's trade policy must evolve beyond conventional free trade agreements (FTAs). This article examines recent trends in EU trade agreements, highlighting not only their expanded scope to include areas such as digital trade, sustainability, and regulatory cooperation, but also the emergence of new negotiation formats such as two-phase agreements. It then explores alternative forms of trade cooperation, including plurilateral agreements, mini-deals, and informal economic partnerships, as potential responses to geopolitical shifts and recent trade disruptions. Against a backdrop of renewed protectionist measures—particularly from the United States—this article argues that the EU must proactively forge deeper economic alliances with like-minded partners as a counterforce to this trend. The EU can do this by embracing adaptable negotiating formats that prioritise speed and flexibility without compromising on the core requirements for such agreements at the multilateral level. A strategic shift towards trade arrangements that are adaptable and pragmatic, yet uphold the integrity of the rules-based system, is essential to preserving the multilateral trading order in an era of growing economic unilateralism.

## 1 | What Role for EU Trade Partnerships at a Time of Increasing Unilateralism?

As the rules-based international trading system has staggered into the second quarter of the 21st century, the pace of the conclusion of free trade agreements (FTAs) has at least remained steady (WTO 2025). According to the WTO Regional Trade Agreements Database, as of 1 February 2025 there were 373 regional trade agreements in force involving all WTO members except Timor-Leste. While around 80% of global trade in goods is conducted on an MFN basis (Gonciarz and Verbeet 2024) there are also a significant number of deeply integrated trading areas in the global economy. Approximately one half of WTO members are part of a customs union and one quarter are part of a monetary union. In contrast to the prominence of FTAs in the early 21st century, there has been stagnation at the multilateral level in international trade law. This stagnation in terms

of negotiations and regression in terms of the settlement of disputes has begun to affect the content of FTAs and the usage of their dispute settlement mechanisms by WTO Members. Coupled with the recent rise in unilateralism, it may well be that there is a renewed impetus to reimagine the possibilities of FTAs. This would build upon the move ‘beyond traditional trade deals’, which was a hallmark of the Biden Administration, and one of the pillars of the ‘new Washington consensus’ (Sullivan, J. 2023; The White House, Speeches and Remarks n.d.), the subject of this Special Issue. Given the dramatic escalation in tariffs unseen in scale for nearly a century, stable and reliable trading partnerships have taken on renewed strategic significance. As the Trump Administration targets allies and adversaries alike with economic measures from tariffs to export controls, there is increased urgency to deepen trading alliances and to form a united opposition to these actions. This represents an opportunity for those committed to the rules-based international order.

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New arrangements among like-minded allies may be the best option in the face of economic coercion or strongarming of this kind. The potential form such arrangements could take is the subject of this article.

Trade integration and cooperation in international economic law (IEL) takes many forms—as does conflict in IEL. This article focuses on positive trade integration and explores four forms of cooperation including and going beyond conventional trade agreements. Such arrangements are all the more necessary at this time. This article makes the case that the caution that has characterised the economic integration process in recent decades has to be replaced not just by a firm commitment to rules-based international trade among WTO Members, but by putting in place new arrangements that will deepen their economic integration.

## 2 | Expanding Cooperation Under FTAs and Recent Trends in EU Trade Agreements

This section considers recent trends in the conclusion of RTAs. It discusses expanding cooperation under FTAs before turning to the recent practices of the EU.

### 2.1 | Expanding Cooperation Under FTAs

Inter-state cooperation in international trade law has evolved from the Treaties of Friendship, Commerce and Navigation (FCN) of old to the Mega Regional Trade Agreements (MRTAs) of the past decade.<sup>1</sup> In line with Article XXIV GATT and Article V GATS, parties conclude such agreements with the aim of encouraging reciprocal trade, services and investment through deeper liberalisation and without raising barriers against non-members. The aims of RTAs have expanded in recent times going beyond the reduction of tariffs, customs barriers and what has traditionally been covered in trade agreements to mutual recognition agreements, the harmonisation of standards and qualifications, and other forms of cooperation (Claussen 2022). In most FTAs, provisions on substantive rules and rights and obligations often closely follow (or directly incorporate) the WTO agreements in these areas.<sup>2</sup> Overall however, the subject matter covered in RTAs and the level of detail entered into has also rapidly expanded in recent times to include coverage of matters that go beyond the WTO agreements (WTO-extra provisions) including for example investment chapters that contain ISDS (Horn, H. Mavroidis, P. & Sapir, A., Horn et al. 2009). While agreements like the GATT have proven remarkably resilient over time—though not without flaws—the scope of trade agreements today has inevitably expanded to include areas such as digital trade and data flows (Burri 2023), sustainable development, and other emerging issues.<sup>3</sup>

A comparison between the EU-Singapore FTA and the EU-Chile Advanced Framework Agreement (AFA) is instructive in understanding this recent expansion, with these agreements having been concluded in 2014 and 2024 respectively. The EU-Chile AFA contains 33 chapters, compared to 16 chapters in the EU-Singapore FTA, marking a clear expansion in areas such as trade governance and regulatory cooperation. Areas that have

emerged under the EU-Chile AFA, and did not feature in the EU-Singapore FTA, include chapters on digital trade (chapter 19), SOEs (22), the mutual recognition of professional qualifications (14), regulatory cooperation (29 & 13)<sup>4</sup>, SMEs (30), critical raw materials (8), and a greater emphasis on sustainability including gender equality (27).

While there is a general trend towards expansion, the content of FTAs is bespoke. Not every FTA would contain a chapter on critical raw materials, and the EU-Chile AFA is indicative of the EU's increased emphasis on economic security. Agreements with other partners also contain atypical elements, including the EU's recent FTA with New Zealand, which contains innovative commitments on climate, and the EU's Global Agreement with Mexico, which contains a chapter dedicated to anti-corruption.

While areas not traditionally covered in trade agreements have at times been brought under the FTA umbrella (e.g., anti-corruption), there is now a shift from 'trade and' to ... 'and trade'<sup>5</sup>—with trade increasingly being part of the broader framework of international cooperation, which may primarily be shaped by security and geopolitics (e.g., IPEF, TTC).

The question arises as to the limits of what can be included in a FTA, where WTO Members maintain independent trade policies. This was tested during the negotiation of the EU-UK Trade and Cooperation Agreement (TCA), which was concluded in 2020. This mammoth agreement encompasses trade, security, law enforcement, fisheries, and more, containing 783 Articles and over 2500 pages including annexes. The TCA was born of necessity in the unique circumstance of a 'divorce' between two economies that had become deeply intertwined over the course of the previous decades. While the TCA is a trade agreement involving deep integration between economic partners, it is not, of course, a model to follow, and its provisions are driven by the unique context of Brexit.

### 2.2 | Recent Trends in EU FTAs

Economic security was to the top of the agenda in European Commission President Von der Leyen's first term (2019–2024). The Commission's geopolitical turn was reflected in the transition from the Juncker Commission's 'trade for all' strategy to 'open strategic autonomy' (OSA) during Von der Leyen's first Commission Presidency and is arguably the most important recent development in EU trade policy (Meunier and Nicolaidis 2019). The phrase OSA captured a dual focus in EU trade policy during this time. The word 'open' in OSA refers to measures that liberalise trade (broadly speaking), while 'strategic autonomy' largely refers to measures that strengthen trade defence, as well as the EU's broader ambition of being able to function autonomously in global affairs. During these years, one of the three pillars of the EU's economic security strategy was 'partnerships'. In terms of OSA, there was more of a focus on protecting the EU against vulnerabilities during Commission President von der Leyen's first term, for example through the adoption of instruments such as the Foreign Subsidies Regulation (FSR), the Anti-Coercion Instrument (ACI), CBAM etc. (Verellen and Hofer 2023). This came about after the Commission undertook a 'vast project' to review potential vulnerabilities in its trade

defence instruments (Beaucillon 2023). There was less focus on FTAs and reduced ambition in EU FTA policy.

Economic security and competitiveness are the issues that have dominated the early days of the second von der Leyen Commission, even leading to the renaming of the Commission's trade department from DG Trade to DG Trade and Economic Security. The focus of EU trade policy is now on the core objectives of competitiveness, security, and sustainability (von der Leyen, 2025). Compared to the Juncker Commission, which made the conclusion of an EU-US trade agreement one of its ten priorities, there has been a sense of inertia around the negotiation of new free trade agreements, with exceptions such as the New Zealand and Chile trade agreements. The former was the first agreement to include the EU's new approach to trade and sustainable development, and it contained legally enforceable commitments on climate change. The latter can be seen as furthering EU economic security, with the EU's desire to secure access to raw materials such as lithium and copper being one of the driving forces behind this deal. Nonetheless, these countries had a combined population of 24 million people at the time, and agreements with larger trading partners remained elusive. There are signs of a renewed impetus to conclude FTAs, with recent breakthroughs on the EU-Mercosur Agreement and the modernisation of the EU-Mexico Global Agreement in late 2024 and early 2025. Such agreements can act as a counterweight against rising protectionism, though neither agreement is yet in force.

### 2.3 | Trends to Be Approached With Caution

As mentioned, stable and reliable trading partnerships have taken on a renewed strategic significance in 2025. Where other major trading powers engage in coercive unilateral measures, this represents an opportunity for the EU to deepen its trading partnerships with likeminded allies. The second von der Leyen Commission's key objectives centre around competitiveness and security and concluding deep rules-based trading partnerships contributes to both of these objectives.

The EU must lead by example and in its negotiations with the Trump administration, there should be no question of compromising on respect for the rules of the international trading system. Deals of this kind, by the EU or other WTO Members, risk destroying the WTO rulebook. Any deal that fails to comply with WTO rules is a Faustian pact that will ultimately prove destructive. As the US administration has criticised EU policies on a range of issues from VAT to hormone-treated beef, it is also far from certain that any comprehensive agreement with the US could be concluded.

In March 2025, the EU proposed a 'zero-for-zero' tariff arrangement to eliminate industrial tariffs with the US. President Trump rejected this proposal. In terms of the WTO compatibility of such an arrangement, this would depend on its benefits being extended to all WTO Members, it being part of a formal Free Trade Agreement (FTA), or the arrangement receiving a waiver from the WTO membership, which would be unlikely. While the details of this arrangement were not fully clear, there were definitely questions to be answered about its WTO compatibility,

particularly as market access appeared to be at its core, rather than sustainability or mutual recognition agreements.

The UK was the first country to reach an agreement with the US in the aftermath of its so-called 'Liberation Day'. This Economic Prosperity Deal, while not 'legally binding' is far narrower than the EU 'zero for zero' offer and would be a clear breach of WTO rules. This deal is reminiscent of the 2019 US-Japan mini-deal on tariff lines, which covered a narrow range of goods, though at least that agreement planned a more extensive second phase of negotiations (see Section 3.2).

The trend of sequencing trade agreements into multiple phases has also recently been adopted by the EU in its negotiations with Indonesia and India (Times of India 2025). While this approach embodies the pragmatism that may be needed in today's geopolitical climate, it also introduces risks. Deferring the most contentious parts of an agreement to a second phase of negotiations may well reduce the likelihood of reaching an outcome in these areas, as occurred in the abovementioned phase one US-Japan agreement. To mitigate this risk, steps can be taken to maintain momentum such as having a built-in agenda. However, each party will have to assess whether ultimately there will be the political will to conclude a second phase and whether that risk is worth taking (e.g., if a stalled agenda would call into question the WTO compatibility of a phase one agreement).

There is understandable caution towards the 'single undertaking' model in trade negotiations, given the limited outcomes at the WTO since 1995. Against this, bilateral negotiations are far simpler than those involving over 100 parties. However, negotiation theory emphasises the value of integrative bargaining in reaching favourable negotiating outcomes (Druckman and Wagner 2021) and that simultaneous negotiations can lead to better outcomes than sequential negotiations where there are multiple contentious issues (Fatima et al. 2006).

## 3 | Forms of Cooperation Beyond Conventional Trade Agreements

This section explores the options available for using FTAs as a means of deepening alliances and as a response to increasing unilateralism. It charts three different forms of cooperation on trade including plurilateral agreements, mini-deals, and informal economic partnerships. Along with RTAs, these arrangements are of increased importance in the context of rising unilateralism and faltering multilateralism.

### 3.1 | Plurilateral Agreements

As WTO Members have failed to successfully conclude major trade negotiations and bring the organisation's rulebook meaningfully into the 21st century, agreements among a subset of members, known as plurilateral agreements (PAs), seem like 'a pragmatic alternative to multilateralism' (Collins 2025) and an obvious solution to bypass the WTO's consensus requirement. The EU for example has long resorted to the tactic of differentiated integration as a means of facilitating deeper integration among willing Member States (Peers 2015). This raises the

question of why plurilaterals have played such a marginal role in shaping the multilateral trading system in recent years. I believe the two main reasons for this are the WTO's consensus requirement (foreclosing closed PAs) and the fact that we have entered a period of instability, shaped by geopolitical tensions and great power rivalries (foreclosing open PAs to some extent).<sup>6</sup>

Article II.3 of the Marrakesh Agreement states that the Plurilateral Trade Agreements included in Annex 4 of the WTO Agreement are 'also part of this Agreement for those Members that have accepted them'. Such agreements are included in Annex 4<sup>7</sup> but the addition of a plurilateral agreement to Annex 4 requires consensus among WTO Members.

The WTO's consensus requirement applies not only to new WTO agreements, but also to closed plurilateral agreements (Ungphakorn 2024a; Collins 2025). While the challenge of reaching consensus among 166 Members and concluding an agreement such as the Doha Development Round is well understood, it might be expected that this consensus requirement would not unduly hinder subsets of Members from seeking deeper integration at the WTO. This, however, has not proven to be the case.

At the WTO's 13th Ministerial Conference (MC13), there was some success with India lifting its objection to the Services Domestic Regulation, an open plurilateral agreement agreed to by 71 WTO Members. However a closed plurilateral was also proposed at MC13, the Investment Facilitation for Development (IFD) Agreement, and this was blocked by India and South Africa. They cited the lack of consensus on the issue and Article X.9 of the Marrakesh Agreement.<sup>8</sup> By the end of 2024, the addition of this plurilateral agreement had been blocked six times. Despite having the support of 126 WTO Members, the adoption of the agreement has been repeatedly opposed at the WTO General Council by India, South Africa and Türkiye (Ungphakorn 2024b). It is safe to say that India is a staunch defender of the consensus requirement at the WTO, which it views as a 'fundamental rule' in WTO decision-making.<sup>9</sup> In India's five-page 'rant' (Ungphakorn 2023) against plurilaterals, it asks *'What could be more ironic in WTO than this, i.e., violating the treaty-embedded right of members to start consensus-based negotiations on mandated issues, and then at the end of such unrecognised and unlawful process, seeking consensus from those very members whose treaty-embedded right was intentionally vitiated in the first instance'*.<sup>10</sup> While India's opposition to closed plurilaterals may seem rigid, its stance highlights the broader challenge of securing consensus-based agreements at the WTO, and makes the conclusion of closed plurilateral agreements unlikely to materialise in the near future.

Negotiations of open plurilateral agreements, sometimes referred to as 'joint statement initiatives', appear to be less objectionable to certain WTO Members, as seen above with the Services Domestic Regulation which entered into force at MC13. As per Article X.9 of the Marrakesh Agreement, such agreements may only be added to Annex 4 of the WTO Agreement where the Ministerial Conference decides to do so by consensus.

Nonetheless, the negotiation of open plurilaterals within the WTO framework can present challenges as some Members tend

to 'insist that negotiations, or discussions, within the WTO involve all Members, and not only a coalition of willing Members'. (Van den Bossche and Zdouc 2022).

A way around this is negotiating plurilaterals *outside* the WTO framework. An example of this in recent years is the Digital Economy Partnership Agreement (DEPA) which entered into force between New Zealand, Chile, and Singapore in 2021.<sup>11</sup> This agreement covers digital trade (data, artificial intelligence, digital products etc.).

A second example is the Agreement on Climate Change, Trade and Sustainability (ACCTS) which eliminates tariffs on 316 environmental goods and over 100 environmental services, as well as developing a framework on the elimination of fossil fuel subsidies.<sup>12</sup> While ACCTS is designed to expand over time, there are question marks over whether the EU and other potential partners will join. ACCTS includes a commitment to eliminating tariffs on goods including electric vehicles (EVs) and solar panels, and it is unclear whether such a commitment would overly constrain EU policy as it seeks to gain a foothold in the EV industry. This is particularly relevant given the EU's recent investigation into Chinese EVs and its decision to impose countervailing duties (European Commission, Press Release 2024).

The WTO compatibility of plurilaterals negotiated outside the WTO framework is clearer where they build on existing trade agreements between the parties (regional trade agreements that come under GATT Article XXIV and GATS Article V are exceptions to the WTO's rule on nondiscrimination). Where there is no underlying FTA, WTO compatibility may be called into question.<sup>13</sup> Where there would be a possibility of such objections, that is, in the absence of an underlying trade agreement that the framework builds upon, this would be an additional obstacle to EU accession.

DEPA and ACCTS undoubtedly fall short of GATT Article XXIV's criterion of covering substantially all trade. These agreements are, however, open plurilaterals where the elimination of customs duties on environmental goods imports is extended to all WTO Members (New Zealand Foreign Affairs and Trade 2024). As such, the tariff reductions are implemented in a WTO-consistent manner, observing the MFN principle.

## 3.2 | Mini-Deals

As the drive to conclude large scale trade agreements has slowed down in recent years, particularly among the world's largest economies, an interest in deals at the other end of the spectrum—mini-deals—has emerged. Cernat puts the number of such deals concluded by the EU at around 2000 (Cernat 2023) and Claussen has found over 1200 such agreements concluded by the US (Claussen 2021).

An obvious objection to such deals is the fact that they would be unlikely to meet the requirement of covering 'substantially all the trade' between the territories in question.

While there has been a longstanding question concerning the compliance of the hundreds of RTAs that have been notified



to the WTO with this requirement, it is beyond question that mini-deals that cover a few tariff lines between the parties concerned would not be compatible with GATT Article XXIV where there is no existing trade agreement between them.

There are various types of mini-deals ranging from deals on tariffs to mutual recognition agreements (MRAs) (Cernat 2023). Examples of mini-deals concerning tariffs include the EU-US mini-deal announced in 2020 on lobster and a few other tariff lines.<sup>14</sup> This package was agreed by Ambassador Lighthizer and Commissioner Hogan '[a]s part of improving EU-US relations'.<sup>15</sup> The objective of the agreement was to 'de-escalate tensions'.<sup>16</sup> Importantly the tariff reductions were implemented in a WTO-consistent manner and observed the MFN principle.

Another example is the 2019 US-Japan mini-deal on tariff lines covering 42 farm products and certain industrial goods, which was the first cut in trade barriers during the Trump administration (Schott 2025). The first phase of the US-Japan deal clearly failed that test, but US officials argued that once the second phase of the deal was completed, it would be WTO-compliant (Schott 2025).

This was well described as offering the deal a 'thin veil of WTO compliance', an assessment that was borne out as the more extensive second phase planned for 2020 was not ultimately completed (Dadush and Brekelmans 2019). Mini-deals of this nature, including the UK-US trade agreement discussed in Section 2.3, clearly depart from the rules-based system and the commitment of WTO Members to only depart from the MFN principle where they conclude comprehensive trade agreements.

### 3.3 | Informal Economic Partnerships

At first glance, the case for making informal economic partnerships such as those pursued by the Biden administration the solution to the problems facing IEL today is not obvious. These new model arrangements may appear to have been little more than placeholders during the four-year interregnum between the first and second Trump administrations.

The Indo-Pacific Economic Framework (IPEF) was the Biden administration's flagship initiative in Asia. It included fourteen participating states<sup>17</sup> and was probably the most well-developed of these informal partnerships. Key features of IPEF included reduced ambition, particularly compared to an agreement like the TPP, a move away from reducing trade barriers, an à la carte approach, so countries could opt out of any of the pillars, and a focus on key contemporary challenges such as supply chain management, climate change, the digital economy, etc.

IPEF was not a trade agreement in the traditional sense, and it was ultimately underwhelming.

It involved negotiations on four pillars including: (1) Trade; (2) Supply Chains; (3) the Clean Economy; and (4) Anti-Corruption.<sup>18</sup> Across its seven negotiating rounds and ministerial meetings, outcomes were reached on all but one of these pillars—the trade pillar.

It appears that the fatal flaw in IPEF was that market access was taken off the table by the US. This was a key trade interest of many of the US' partners and it can be argued that without market access the US' partners lacked an incentive to give far-reaching commitments in areas such as labour standards or anti-corruption. Seven of the member countries of IPEF are also CPTPP Members and it may be the case that there was hope this agreement would be a bridge towards a more far-reaching agreement in the future.

IPEF's Supply Chain Agreement is perhaps its most interesting outcome. The parties established a Supply Chain Council, which included a Crisis Response Network aimed at addressing disruptions in supply chains. This Agreement also contains a Labour Rights Advisory Board (Article 8) and a mechanism that is akin to the USMCA's Rapid Response Mechanism (Article 9). Under this mechanism, allegations of labour rights 'inconsistencies' can be reported. A central issue here is enforcement and remedies. While the USMCA provides for the suspension of concessions where an inconsistency is found, there is no market access in IPEF that can be suspended. Rather the Agreement commits the parties to 'dialogue in good faith to reach a resolution' (Article 9.10.).

The EU's main foray in this area was the EU-US Trade and Technology Council (TTC) as well as the EU-India TTC.<sup>19</sup> The EU-US TTC was built on soft law structures and represents a 'low bar of cooperation' (Fahey 2024), having mainly focused on green trade and technology, and various aspects concerning supply chains. The TTC met six times from 2021 to 2024 and proved itself to be limited but useful in sharing best practices and coordinating action, for example on subsidy programmes (Working Group 3) and coordinating export control regimes, including on semiconductors.<sup>20</sup> This was also important in the context of coordinating controls and sanctions in the aftermath of Russia's invasion of Ukraine. Nonetheless, it is important not to overstate the role of this informal economic partnership and a criticism of the TTC was the fact that the important trade issues such as the US' Inflation Reduction Act were addressed outside of this Council at the EU-US IRA Task Force. Although neither of these examples could be said to have provided clear grounds for an endorsement of informal economic partnerships from 2021 to 2024, the next section discusses how such a format may yet prove to be a useful form of cooperation.

## 4 | New Frontiers in EU Trade Policy: Abandoning Caution in Response to the Trump Administration

### 4.1 | The Need for Action

This article makes the case that the caution that has characterised the economic integration process in recent decades has to be replaced with a firm commitment to free trade among the subset of WTO Members that is proactively committed to the multilateral system, imperfect though it may be, and the concept of rules-based international trade.

The Trump Administration has seriously undermined the rules-based international trading system with its so-called 'Liberation Day' tariffs. Scrapping the WTO's foundational MFN provision,

the US sought to impose 'a reciprocal tariff with respect to each foreign trading partner' before pausing these measures (White House 2025b). The US has also imposed tariffs on a range of goods including steel and aluminium, automobiles, and semi-conductors. These threats have at times been made in order to force changes to the immigration or drug control policies of neighbouring countries (White House 2025a).

Actions such as those of the US require an equal and opposite reaction in response. This involves forming alliances. As a starting point, the EU should seek to deepen its trading relations with WTO Members that have demonstrated a commitment to the multilateral system, for example, the 29 other WTO Members who have joined the MPIA.<sup>21</sup> Cooperation with the CPTPP could establish 'common principles' in opposition to unilateralism and a cooperation framework that could eventually lay the groundwork for WTO reform (García Bercero 2025). While the EU has trade agreements with many of these countries, progress can be made in building on existing agreements (as seen with the modernised agreement with Mexico), ratifying Mercosur, and concluding negotiations with Australia and the Philippines.

## 4.2 | What Should New Forms of Cooperation in International Trade Look Like?

As set out in Section 3.1, the marginal role of plurilateral agreements (PAs) in the development of IEL comes down to a couple of key reasons. First, the WTO's consensus requirement has meant that individual WTO Members can block closed PAs from being concluded within the WTO framework. Open PAs have had limited success both at the WTO and outside of it. Open PAs such as ACCTS have been successful in eliminating customs duties on environmental goods imports. The elimination of duties is however extended to all WTO Members in order to comply with the MFN principle. The EU recognises the potential for open, plurilateral agreements to deliver where the single undertaking approach has failed (European Commission 2021). The Commission has also called for the creation of an easier path for plurilateral agreements to be integrated into the multilateral architecture (European Commission 2021). While open plurilaterals further the objective of trade liberalisation, it may be difficult for the EU to adopt this approach where benefits are extended on an MFN basis to all WTO members in a period shaped by power rivalries. Closed PAs outside the WTO could be an option, though these would require an underlying FTA in order to be WTO compatible.

On mini-deals, some of these agreements appear to be of questionable WTO compatibility. During Trump's first term, the EU managed to strike a mini-deal with the US on an MFN basis, thus making it compatible with WTO law. The US-Japan mini-deal made no such provision. What the two deals had in common was the opportunity they seized upon.

The objective of the US-Japan mini-deal was not a general aim to promote trade in goods, rather it was an attempt to compensate American farmers 'for their losses from the trade war with China' (Dadush and Brekelmans 2019). Likewise, the EU's mini-deal was concluded against a backdrop of demand for Maine lobsters having 'fallen by 50%', largely due to tariffs

enacted by China in the US-China trade war (25% extra).<sup>22</sup> As Reinhard Bütikofer MEP reminded the European Parliament, 'we open a door to shared efforts to overcome the trade war mentality which has poisoned transatlantic relations over the last four years'.<sup>23</sup> This spirit of pragmatism needs to be replicated by the EU and its partners over the coming years. A window for a similar deal with the US may well present itself and as seen above, deals can be reached that are win-win and WTO compatible.

Generally speaking, however, mini-deals tend to be in areas such as Mutual Recognition Agreements. Such agreements are undoubtedly useful and provide incremental gains over time, but on their own, they are unlikely to provide a large-scale solution to the problem of unilateralism.

FTAs themselves will also provide part of the solution for deepening alliances and forming a united opposition in the face of unilateral coercive measures. While the value of US FTAs has been called into question by US actions in relation to its FTA partners, such as Canada, Mexico, and Colombia (the Trump Administration ignored the US-Colombia FTA and threatened to place 25% tariffs across the board, rising to 50% one week later, if Colombia did not accept deportation flights from the US), these actions also underline the value of having an extensive network of trading partners in order to reduce the leverage where such apparent economic coercion is attempted. As countries seek to avoid the worst of US tariffs, there is also a need to avoid compromising on long-held principles, as seen with the UK-US trade agreement.

There is a need for the EU to diversify its FTA partners, particularly through partnerships with likeminded allies that are committed to the rules-based international trading system. The EU trades with Australia on WTO terms, and this appears to be a prime example of a trading relationship that does not go far enough. There is a strong argument for having a baseline trade agreement in place with partners such as Australia. Bilateral trade more than quadrupled in the first 20 years of the EU-Mexico Global Agreement, paving the way for the expanded 2025 agreement (European Commission 2020). Having a foundational agreement in place may also pave the way for further agreements in areas like digital trade. The EU-Singapore Digital Trade Agreement was concluded on 25 July 2024, less than five years after the EUSFTA entered into force. Such phased agreements can benefit the EU while respecting the multilateral order, so long as there is a limited number of issues deferred to 'phase two' and the foundational agreement covers substantially all trade between the parties.

Finally, informal economic partnerships might provide a further option as they are flexible, issue-driven, and can be set up quickly without needing Council approval or ratification by Member States. Partnerships like the TTC or IPEF can be a forum for cooperation and experimentation (Du 2025). They can operate along a multitude of pillars, with opt outs where states do not wish to participate. Such a forum could be a focal point for building coalitions and dialogue with like-minded allies where progress is built incrementally rather than having a binary outcome of either concluding a fully-fledged trade agreement or not.

A shift in mindset is needed from the standard practice of taking a decade for a trade agreement to be concluded.<sup>24</sup> A persistent issue with RTAs has been the length of time they take to be concluded. Traditionally the EU has had an aversion to ‘quick and dirty’ trade agreements. This needs to be balanced with the reality that trade agreements can be building blocks that deepen ties between partners.

In an age of unilateralism, the necessity to conclude agreements quickly is all the more important. A decade is too long in an era where trade wars last a single day.<sup>25</sup> The forces of integration may struggle to match the forces of disintegration, but the gap has to be narrowed.

Any increased emphasis on these new forms of cooperation, from mini-deals to informal or non-binding trade instruments such as the TTC, will take place in the context of the EU’s shift towards (open) strategic autonomy. These cooperation structures will coexist with the EU’s expanded unilateral trade defence apparatus, including the FSR and ACI and others.

In this sense, mini-deals and informal partnerships are not merely a pragmatic alternative but part of a wider architecture designed to safeguard EU interests in a more contested global trading environment.

## 5 | Conclusion

Against a backdrop of a decade of stagnation and regression at the WTO and rising unilateralism, the EU must adapt its trade policy away from conventional trade agreements towards more flexible arrangements where necessary.

WTO Members that remain committed to the multilateral system must acknowledge that a cautious approach to trade integration is no longer viable and proactively forge deeper economic partnerships. This may entail the expansion of FTAs and the development of alternative forms of cooperation—including plurilateral agreements, mini-deals, and informal economic partnerships. Each of these frameworks for cooperation offers a pathway to counterbalance unilateralism and deepen trading relations in a WTO-compatible manner. Where Members uphold the rules-based order, it is not an act of self-sacrifice; rather, it is one that promotes stability, economic growth, and their reputation as reliable partners.

The EU has an opportunity to lead in this area by building on its existing network of trade agreements<sup>26</sup> and finalising other agreements. It should embrace adaptable negotiating formats that prioritise speed and flexibility, while also seeking to reach agreements on substance. Initiatives like the IPEF exemplify a potential format for pragmatic partnerships to discuss and address the trade issues of the day in a flexible and incremental manner.

By leading such initiatives, the EU can mitigate unilateralism’s disruptions, reinforce cooperation and support for a rules-based trading system, and set a precedent for 21st-century trade cooperation that is both open and strategic. A concerted, proactive effort to deepen economic alliances is now essential to

safeguarding the rules-based international trading system among willing WTO Members.

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## Conflicts of Interest

The author declares no conflicts of interest.

## Data Availability Statement

Data sharing not applicable to this article as no datasets were generated or analysed during the current study.

## Endnotes

<sup>1</sup> These involve deep integration partnerships between countries with a major share of world trade, see Report of the World Economic Forum’s Global Agenda Council on Trade & Foreign Direct Investment, which listed TPP, TTIP, TiSA, and RCEP as four examples, ‘Mega-regional Trade Agreements Game-Changers or Costly Distractions for the World Trading System?’ (2014) 6.

<sup>2</sup> For example, *Ukraine—Wood Export Ban* (2020) concerned a dispute taken by the EU under the EU-Ukraine Association Agreement (AA). The key provisions of the AA were Articles 35 and 36. Article 36 reads as follows: “Article 36 General exceptions. “Nothing in this Agreement shall be construed in such a way as to prevent the adoption or enforcement by any Party of measures in accordance with Articles XX and XXI of GATT 1994 and its interpretative notes, which are hereby incorporated into and made an integral part of this Agreement.”

<sup>3</sup> As an example of this expansion, the EU-Mexico FTA concluded in 2000 was a mere 17 pages long and contained 60 Articles. Recent EU FTAs contain around 30 chapters and often exceed 1000 pages including annexes.

<sup>4</sup> The EU-Singapore FTA confines regulatory cooperation to Chapter 4 on Technical Barriers to Trade. In contrast, the EU-Chile AFA contains two chapters on Good Regulatory Practices (29), Domestic Regulation (13), as well as a chapter on Technical Barriers to Trade (9).

<sup>5</sup> See Trade Law Conference in Honour of Gabrielle Marceau, Conference title: ‘From Trade and ..., to ... and Trade: Has it Achieved Coherence in International Law?’ Geneva, Graduate Institute, 19 June 2025.

<sup>6</sup> A key feature of open plurilateral agreements is that their benefits are extended on an MFN basis to all WTO members. This is not the case for closed plurilateral agreements. See Berger et al. (n.d.).

<sup>7</sup> Annex 4 to the WTO contains two agreements that are only binding on those that are party to them. The two agreements are the Trade in Civil Aircraft Agreement and the Agreement on Government Procurement. Two other agreements—the International Dairy Agreement and the International Bovine Meat Agreement—were terminated at the end of 1997.

<sup>8</sup> See WTO, 13th Ministerial Conference: ‘Briefing Note: Investment facilitation for development’, April 2024.

Article X.9: “The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4...”

<sup>9</sup> Statement by India on Agenda Item 18, General Council Meeting—13–15 December 2023, WT/GC/262 21 December 2023,



<<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/262.pdf&Open=True>> accessed 15 February 2025.

<sup>10</sup> See Statement By India (n.d.) on Agenda Item 18, General Council Meeting—13-15 December 2023, 21 December 2023, WT/GC/262, Annex, Complete Statement of the Indian Delegation on Agenda Item 18 of the General Council—13-15 December 2023, paragraph 4 <<https://web.wto.org.tw/file/PageFile/392936/WTGC262.pdf>> accessed 23 February 2025.

<sup>11</sup> Korea joined DEPA in 2024 and accession discussions with Costa Rica “substantively concluded” in 2025. New Zealand Foreign Affairs & Trade, Joint press release on the substantial conclusion of discussions for Costa Rica’s accession to the Digital Economy Partnership Agreement, 24 January 2025 <<https://www.mfat.govt.nz/en/media-and-resources/joint-press-release-on-the-substantial-conclusion-of-discussions-for-costa-ricas-accession-to-the-digital-economy-partnership-agreement>> accessed 2 February 2025.

<sup>12</sup> Founding members of ACCTS (2024) include New Zealand, Costa Rica, Iceland and Switzerland. These were all parties to negotiations on the Environmental Goods Agreement (EGA) at the WTO, which collapsed in 2016, and led to plurilateral negotiations.

<sup>13</sup> See Sam Lowe (n.d.), Newsletter, ‘Most Favoured Nation: Trouble Brewing at the TRA’ 8 October 2021, “[A] trade agreement that exclusively covers digital trade clearly doesn’t clear the ‘substantially all trade’ hurdle that trade agreements must jump over if they are to be considered a legal exemption to a country’s WTO obligation to treat all other members the same. The argument goes that while the existing members of DEPA can treat it as an addition to their existing trade agreements with each other (e.g., CPTPP), the UK wouldn’t be able to do that as it doesn’t currently have a trade agreement with all of them (New Zealand, in particular).”

<sup>14</sup> Valdis Dombrovskis, Executive Vice-President of the Commission, stated that the EU eliminated import tariffs on certain types of lobster, while the US provided a 50% duty relief “for a comparable economic value on products such as prepared meals, certain crystal glassware, surface preparations, propellant powders, cigarette lighters and lighter parts”. See European Parliament, Verbatim Report of Proceedings of 26 November 2020 (C/2024/5002) <[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C\\_202405002](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202405002)> accessed 15 February 2025. This deal expires on 31 July 2025.

<sup>15</sup> European Commission, Press Corner (2020).

<sup>16</sup> European Parliament, Verbatim Report of Proceedings of 26 November 2020 (C/2024/5002), statement of Valdis Dombrovskis, Executive Vice-President of the Commission <[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C\\_202405002](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202405002)> accessed 15 February 2025.

<sup>17</sup> Member countries included Australia, Brunei, Fiji, India (three pillars only), Indonesia, Japan, Malaysia, New Zealand, Philippines, Singapore, South Korea, Thailand, United States, and Vietnam.

<sup>18</sup> U.S. Department of Commerce, Indo-Pacific Economic Framework, <<https://www.commerce.gov/ipef/indo-pacific-economic-framework>> accessed 15 February 2025.

<sup>19</sup> A second EU Trade and Technology Council was launched with India in February 2023. The EU also took part in negotiations on Sustainable Steel and Aluminium. The EU and US also took steps to negotiate a Global Arrangement on Sustainable Steel and Aluminium, which aimed to reduce carbon emissions, address global market distortions and reduce excess capacity.

<sup>20</sup> See Readout of U.S.-EU Trade and Technology Council Fifth Ministerial Meeting, 31 January 2024 <<https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/01/31/readout-of-u-s-eu-trade-and-technology-council-fifth-ministerial-meeting/>> accessed 16 February 2025.

<sup>21</sup> These include Australia, Benin, Brazil, Canada, China, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Hong Kong, Iceland,

Japan, Macao, Malaysia, Mexico, Montenegro, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Peru, the Philippines, Singapore, Switzerland, Ukraine, the UK, and Uruguay. Other obvious partners would include Korea.

<sup>22</sup> Bernd Lange, European Parliament, Verbatim Report of Proceedings of 26 November 2020 (C/2024/5002) <[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C\\_202405002](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202405002)> accessed 15 February 2025. As Lange reminded the European Parliament, “[I]n INTA the Social Democratic Group, like many others, followed this proposal with a large, overwhelming majority, for two reasons: One reason is that this is an MFN issue, it applies to all lobster producers, so it is not a unilateral measure, as Mr. Trump would have liked, but a universal one... The second, Mr. President and Mr. Commissioner, is of course: This is an offer—an offer to tackle the many problems we have with the United States.”

<sup>23</sup> European Parliament (n.d.).

<sup>24</sup> Mercosur negotiations infamously began in 2000 and the agreement still is not in force; negotiations on CETA began in 2009 and its trade chapters only entered into force in 2017, while its investment chapters remain in limbo.

<sup>25</sup> On 26 January 2025, Colombia President Gustavo Petro rejected two deportation flights from the US. In response, the Trump administration threatened tariffs on Colombian exports to the US. Despite an initial claim to respond with tariffs, President Petro accepted deportation flights “without limitation or delay”.

See White House, Statement from the Press Secretary <<https://www.whitehouse.gov/briefings-statements/2025/01/statement-from-the-press-secretary/>> accessed 23 February 2025.

<sup>26</sup> The EU has 44 preferential trade agreements with 76 partners across the world <[https://policy.trade.ec.europa.eu/enforcement-and-protection/implementing-and-enforcing-eu-trade-agreements\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/implementing-and-enforcing-eu-trade-agreements_en)> accessed 24 May 2025.

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