The Consequences of a Trump or Biden Win for Transatlantic Trade

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Transatlantic Policy Implications of the 2020 U.S. Election

Whether Donald Trump or Joe Biden wins the U.S. presidency, the next administration will have significant decisions to make on trade while addressing an economy wracked by the coronavirus pandemic.

The president will need to decide whether to continue the policies of the last four years or to adapt them, particularly in four critical areas: the World Trade Organization and the multilateral rules-based system, bilateral trade agreements, the China challenge, and the transatlantic economic relationship.

A reelected Trump may not be as bad as Europe fears, while political constraints on Biden will make it difficult for him to deliver as Europe hopes. Their choices could also be significantly circumscribed by the makeup of Congress, which could shift from the divide between a Republican Senate and a Democratic House to Democrats controlling both chambers.

Trump has wrought a fundamental change in transatlantic economic relations—and not for the better. At the very least, trust must be restored and that will take serious efforts from both sides.

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Trade rarely looms large in U.S. presidential elections, perhaps because (as is often said) all politics is local. The 2016 election was an important exception as Donald Trump's pledge to "Make America Great Again" promised a radical shift in U.S. international economic policy. He kept his pledge, and whoever is sworn into office on January 20, 2021 will inherit a world disrupted by four years of his trade policy, including sharply higher tariffs on a wide range of products, agreements negotiated under duress, and a World Trade Organization (WTO) and set of global trading rules that have been deeply shaken.

That world will also face a global economy wracked by the coronavirus pandemic. Trade accordingly has not been a major campaign issue this year and is unlikely to be the top issue for either a reelected Trump or a President Joe Biden. But the next White House incumbent will need trade to help the economy, and he will also need to explain to the American people where trade fits in a response to the recession and in the United States' role in the world. The president will need to decide whether to continue the policies of the last four years or adapt them, particularly in four critical areas: the WTO and the multilateral rules-based system, bilateral trade agreements, the China challenge, and the transatlantic economic relationship. His policy choices could be significantly circumscribed by the make-up of the next Congress, which could shift from today's divide between a Republican Senate and a Democratic House to Democrats controlling both chambers.

Many Europeans fear a reelected Trump would mean even rockier relations over the next four years (although some, especially the governments in Hungary and Poland, would welcome this). This concern, while understandable, misses that presidents can and do change in office, as George W. Bush did after he was reelected in 2004. The fear of a reelected Trump also leads European observers to be too optimistic about a President Biden. This underestimates the difficulties of reversing Trump's policies, neglects a long history of U.S.-EU trade disputes, and minimizes that Europe too is contemplating moves—on data protection, digital taxes, and climate change—that will complicate transatlantic trade, whoever is in the White House.

The Trump Trade Legacy

President Trump on his first full day in office formally announced the United States' withdrawal from the Trans-Pacific Partnership (TPP) agreement. This was significant, for the TPP was a major trade agreement involving the United States and eleven Asian and Latin American countries that in one fell swoop substantially re-negotiated the North-American Free Trade Agreement (NAFTA); concluded new free trade agreements with Japan, Brunei, Malaysia, New Zealand, and Vietnam; and constructed tough new rules on state-owned enterprises, government procurement, digital trade, worker rights, and the environment (especially on illegal fishing and logging), all with an eye to constraining China. For Trump and his trade team, however, the TPP was merely another example of "the United States … for putative geopolitical advantage, turn[ing] a blind eye to unfair trade practices that disadvantage American workers, farmers, ranchers and businesses in global markets."[1]

The steps that followed over the next three-plus years were all consistent with this ethos:[2]

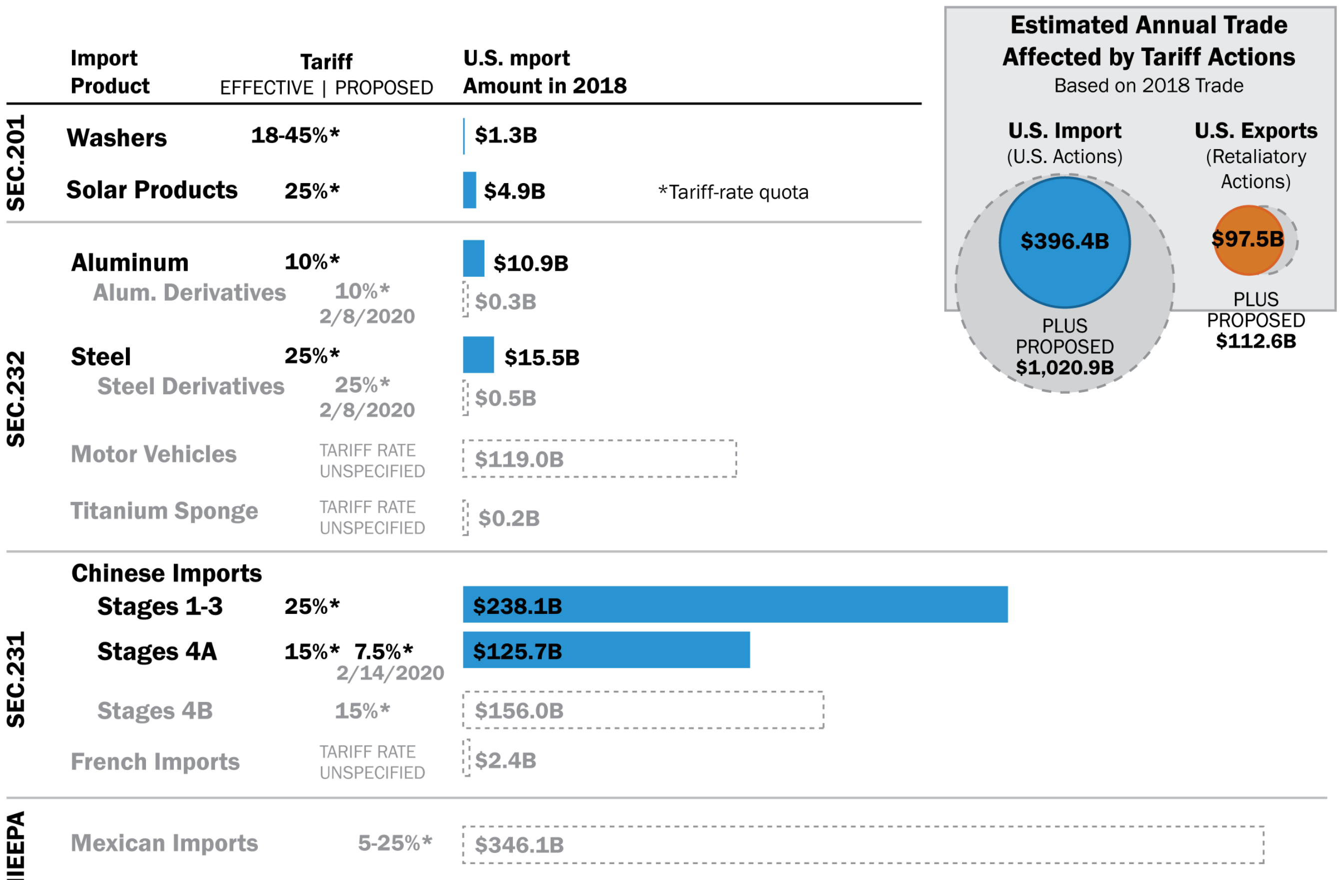
- a rise in the use of anti-dumping and countervailing duty cases against foreign imports (as of October 9, 2020, the administration had launched 286 new such investigations,[3] a 269 percent increase over the Obama administration over a similar period);

1 Office of the U.S. Trade Representative, The President's 2017 Trade Policy Agenda, March 2017, p. 1.

2 Office of Manufacturing and Trade Policy, The Buy American, Hire American President, The White House, October 2, 2020.

3 U.S. Department of Commerce, Commerce Issues Affirmative Preliminary Anti-Dumping Duty Determination on Common Alloy Aluminum Sheet from 18 Countries, October 9, 2020.

Figure 1.Trump Administration Tariffs and Affected Trade



Source: Congressional Research Service, Escalating U.S. Tariffs: Affected Trade, January 29, 2020.

- novel use of "safeguard" actions under Section 201 of the of the Trade Act of 1974 against imports of washing machines and solar panels;
- tighter enforcement of "Buy American" government procurement regulations;
- using the pretext of "national security" under Section 232 of the Trade Expansion Act of 1962 to restrict imports of steel and aluminum, including from European and other allies, and threatening to use that measure to further restrict trade in autos and auto parts, uranium, titanium, vanadium, cranes, and transformer components; and
- launching a trade war against China using Section 301 of the Trade Act of 1974, first by placing duties on $50 billion of imports from China in retribution for its theft of U.S. technologies, and then ratcheting this up by $200 billion and more when China responded in kind.

The Section 301 tariff stick is now aimed against France and other countries for considering levying taxes on large U.S. digital firms. The administration has also effectively shut down the WTO dispute-settlement process, refusing to allow new appointments to the Appellate Body in the absence of reforms. This even though that very same process gave the United States the right to raise tariffs on $7.5 billion of imports from Europe because France, Germany, Spain, and the United Kingdom provided illegal subsidies to

Airbus—which the administration immediately did, in part to pressure the EU to resolve long-standing issues in agricultural trade.[4]

As a result of these and other sticks adopted by the administration, nearly $400 billion or 16 percent of all U.S. imports today face higher duties than they did four years before, while $100 billion of U.S. exports face additional tariffs imposed in response to the administration's actions.[5] Through these actions, the administration has also effectively revoked the 2001 Permanent Normal Trade Relations law that ensured China would be treated like all other U.S. trading partners.

The Trump administration has used these sticks to "encourage" other countries to conclude new trade agreements, including most notably the new U.S.-Mexico-Canada Agreement, which differs from the original NAFTA and the TPP mainly by significantly increasing the "rules of origin" requirement for autos and automotive products that can benefit from its preferential terms.[6] The administration has also concluded agreements with South Korea and Japan that provide additional opening for U.S. products, although in the case of Japan the additional liberalizations are significantly less than those negotiated in the TPP.

The major achievement of the administration, however, is the Phase I agreement with China, signed on January 15, 2020.[7] Under it China has pledged[8] to significantly improve the protection of intellectual property rights and made commitments to eliminate certain measures that force technology transfer, to further open its financial and agricultural markets, and to purchase an additional $200 billion of U.S. products in 2020 and 2021 (likely at the expense of China's other trading partners,[9] including the European Union).

The Impact on U.S-EU Trade and Investment

The onslaught of the coronavirus pandemic at the beginning of 2020 has left the implementation of the Phase I agreement with China in tatters, but before that the International Monetary Fund had anticipated that the Trump tariffs would reduce global GDP by 0.8 percent this year.[10]

That said, U.S.-EU trade and investment had not been badly affected by the end of 2019. This reflects the unique investment-based relationship between the two sides.[11] U.S. companies have over $3 trillion invested in Europe and European firms have over $2.5 trillion invested in the United States—investments that propel about two-thirds of the more than $1 trillion in trade in goods and services across the Atlantic each year.[12] (U.S-EU statistics up to the end of 2019 include the United Kingdom, which left the EU on January 31, 2020. The EU numbers change considerably if the United Kingdom is removed, especially on investment, where it hosts some $850 billion of U.S. foreign direct investment, directed mainly at the EU market.)

The Next Administration and Trade Policy

Whether Trump or Biden is elected, either will focus first on addressing the coronavirus public-health

4 For a detailed description of the Trump administration's trade policy measures, see Peter Chase and Peter Sparding, Consequences of U.S. Trade Policy on EU-U.S. Trade Relations and the Global Trading System, European Parliament, November 21, 2018. See also the timeline from the Congressional Research Service.

5 Congressional Research Service, Escalating U.S. Tariffs: Affected Trade, January 29, 2020.

6 Office of the U.S. Trade Representative, The U.S.-Mexico-Canada Agreement Fact Sheet: Automobiles and Automotive Parts, 2019.

7 Office of the U.S. Trade Representative, Economic and Trade Agreement between the United States of America and the Peoples Republic of China, January 2020.

8 Karen Sutter, U.S. Signs Phase I Deal with China, Congressional Research Service, January 17, 2020.

9 Chad Bown, The Unappreciated Hazards of the U.S.-China Phase I Deal, Peterson Institute for International Economics, January 21, 2020.

10 International Monetary Fund, World Economic Outlook: Global Manufacturing Downturn, Rising Trade Barriers, October 2019.

11 Daniel S. Hamilton and Joseph Quinlan, The Transatlantic Economy 2020, March 2020.

12 Data from Bureau of Economic Analysis, U.S. Trade in Goods and Services by Selected Countries and Areas, 1999-present, August 2020; US Direct Investment Abroad, Detailed Country By Selected Industry 2010–2019, July 2020; and Foreign Direct Investment in the United States, Country by Industry, 2010–2019,September 2020.

Figure 2. U.S and EU Direct Investment Position, Historical Basis, 2010-2019 ($m)

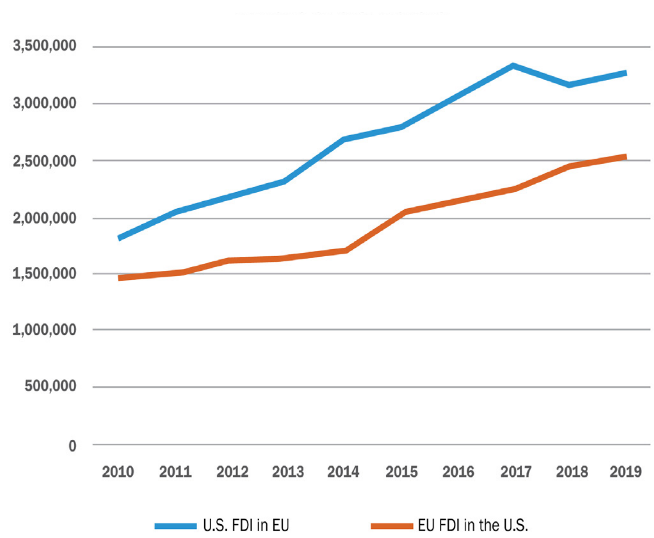
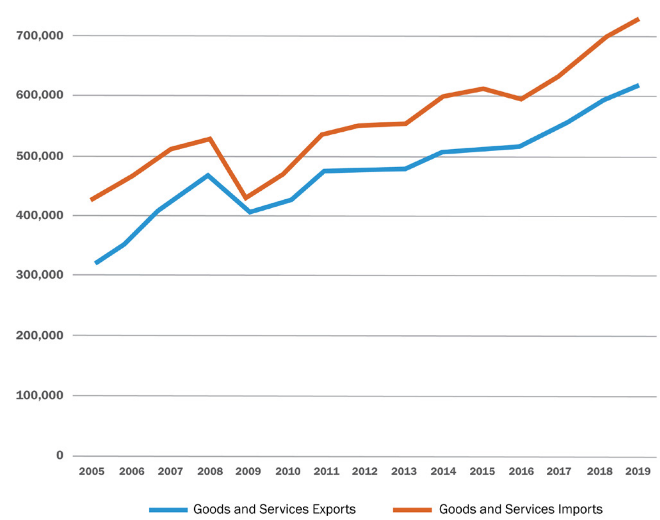


Figure 3. U.S. Goods and Services Trade with the EU, 2005-2019 ($m)



Source: U.S. Department of Commerce, Bureau of Economic Analysis, US Trade in Goods and Services by Selected Countries and Areas, 1999-present, US Direct Investment Abroad, Detailed Country By Selected Industry 2010–2019, and Foreign Direct Investment in the United States, country by Industry, 2010–2019. The decrease in U.S. investment in the EU in 2017–2018 reflects in part the effect of the Trump tax reform, which encouraged repatriation of earnings held abroad.

crisis facing the country, as well as the economic crisis caused in part by the response to the pandemic. Trade policy will be prioritized only to the extent that it can help boost the economy. Ironically, whoever is elected president will inherit an electorate with a new appreciation for the importance of foreign trade to the U.S. economy. For years, foreign trade—especially with Mexico under NAFTA and with China since it joined the WTO in 2001—was blamed for a decrease in manufacturing employment and a variety of societal ills. The Trump trade wars, however, seem to have turned this around as more people understand that loss of foreign markets is also a problem. Nearly 80 percent of those surveyed in a February 2020 Gallup poll said they saw foreign trade as an opportunity for economic growth.[13]

A Second Trump Term

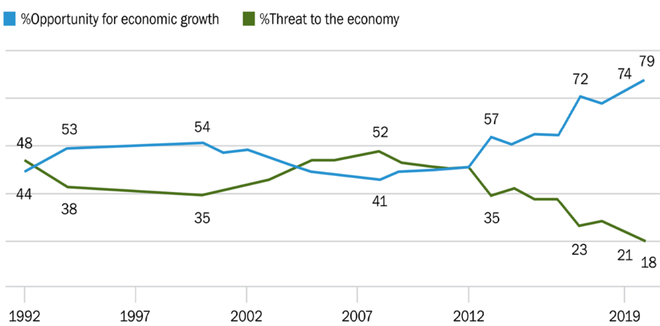
For Trump, the "Buy American, Hire American President," reelection would be a political vindication of his pugilistic trade policies, which he and Trade Representative Robert Lighthizer portray as promoting the interests of manufacturing workers[14] (that is, voters in key U.S. states) rather than those of companies or even the economy as a whole.

This would not change, and indeed would intensify, as a second Trump administration would likely focus its trade policy first on unfinished business with China. The administration has taken pains during the election season to argue that China is adhering to the purchase commitments under the Phase I agree-

13 Gallup, Trade Under Trump, February 2020.

14 Robert Lighthizer, 'How to Make Trade Work for Workers: Charting a Path Between Protectionism and Globalism,' Foreign Affairs, July/August 2020.

Figure 4. Americans' Views of What Foreign Trade Means for the United States



Source: Gallup, Trade Under Trump, February 2020.

ment.[15] But, in fact, China is unlikely to reach these ambitious targets.[16] This shortfall can only exacerbate an already fraught relationship, where tensions have been increasing sharply since the outbreak of the pandemic in the United States, China's imposition of a national-security law on Hong Kong in June, and the constant tightening of U.S. sanctions and export controls on major Chinese firms like Huawei. China is now reciprocating these steps.[17] This will make reaching a Phase II agreement that addresses the real underlying problems in the trade relationship—the distortions in the Chinese economy—even more difficult. While Lighthizer in June tried to step back from a complete "decoupling" of the U.S. and Chinese economies, Trump immediately announced that he still sees this as an option.[18] That would not change if he is reelected.

A reelected Trump who is doubling down on China could spell trouble for the European Union, which he argues was "formed to take advantage of the United States."[19] He continues to stress that the United States' second-largest trade deficit after the one with China is with the EU ($180 billion in goods and $110 billion for goods and services in 2019) and that this demonstrates an "unfair" relationship. And while the threatened use of "national security" tariffs against $60 billion of EU auto exports to the United States has faded, it could easily be resurrected should trade tensions flare over the Airbus-Boeing dispute, digital taxes, or climate issues.

That said, the Trump administration has avoided a full-blown transatlantic trade war, despite the president's oft-expressed unhappiness about the EU's unfair practices, particularly in the agricultural area, where the EU exports twice as much to the United States as it imports from it. Ironically, the WTO ruling allowing the United States to impose duties on $7.5 billion of EU exports because of illegal subsidies to Airbus may have helped, as it gave Washington legally justifiable leverage with Brussels on the truly thorny issue of agricultural trade in lieu of the much more indirect and legally dubious "national security" tariffs against EU auto exports.

This semblance of restraint matters, as it shows that U.S.-EU economic relations are not preordained to deteriorate if Trump is reelected. As the challenges with China become more difficult, the United States' need for allies against it becomes clearer, even to people in the administration who have chosen to "go it alone" against Beijing. This is particularly true as the EU, for its own reasons, is adopting a firmer policy against China's economic distortions and unfair trade practices.[20] While it is unlikely a reelected Trump would opt for a more collaborative policy toward the EU, this should not be ruled out either—he needs the Europe in the struggle with China, and experience shows such

15 Robert Delaney, 'Trump Says China Buying More U.S. Goods 'to Keep Me Happy',' South China Morning Post, August 16, 2020.

16 Chad Bown, U.S.-China Phase I Tracker: China's Purchases of U.S. Goods as of August 2020, Peterson Institute for International Economics, October 6, 2020

17 Evelyn Cheng, 'China Releases Details of its Own Blacklist, Raising Uncertainty for Foreign Business,' CNBC, September 21, 2020.

18 Josh Wingrove, 'Trump Threatens 'Complete Decoupling' From China,' Fortune, June 19, 2020

19 Gabriela Galindo, 'Trump: EU Was Set Up to 'Take Advantage" of the United States,' Politico, June 28, 2018; see also stories in New York Times, October 15, 2018; Quartz, June 26, 2019; and Business Insider, July 15, 2020.

20 Peter Chase, The Missing Partnership: The United States, Europe and China's Economic Challenge, German Marshall Fund of the United States, September 15, 2020.

transitions are possible, as when President George W. Bush went from dividing Europe in his first term to working closely with it during his second.[21]

Europe should not expect, however, that a second Trump administration would take a constructive attitude toward the WTO, even were it willing to mitigate tensions with the EU. Trump has made clear his disdain for the organization, threatening on a number of occasions to withdraw from it altogether, as he believes previous administrations took on liberalization commitments that go far deeper than other countries, an imbalance made worse because self-proclaimed "developing" countries like China can evade many WTO commitments. While Trade Representative Lighthizer professes to see value in the WTO,[22] he has also said it would be "fine" should binding dispute settlement vanish.[23] His animus against WTO rulings that restrict the ability of the United States (and Europe) to use anti-dumping instruments to respond to the over-capacity caused by the distortions in China's economy was only heightened by the WTO's ruling in September 2020 against the administration's tariffs on China.[24] Whether or not Lighthizer remains in this position for a second term, any incoming Trump trade policy team will at the very least continue to press for WTO reforms other members are unlikely to accept.

A Biden Presidency

Joe Biden embodies the post-war consensus of a U.S. foreign and international economic policy based on the rule of law.[25] He would certainly reaffirm NATO, stress the importance of the EU and the United States' European allies, re-engage on climate change, call off the retributions Trump has threatened (like the "national security" duties on $60 billion of European exports), and pledge to do no more harm to the transatlantic relationship.

All of this would be good for European countries reeling from Trump's trade policy, but it may also encourage complacency about a Biden administration. Biden would have the power to roll back the executive orders Trump has used to fight his trade wars. He could cite Federal Reserve economists to make a good case that these tariffs hurt U.S. workers and the economy.[26] And he and many of his advisors are aware that a real problem with globalization is the inadequacy of U.S. government programs to help workers adapt to change.[27] But, even as Americans may better understand the importance of trade, protectionism resonates politically during an economic crisis, and that crisis would be Biden's chief concern after the coronavirus pandemic.

Biden is not immune to a protectionist stance, as his supply-chain security and government-procurement plans suggest. He is unlikely to revert to "normal" tariffs for China overnight or even to remove the national security tariffs on steel and aluminum until he has a program to help workers absent the "protection" the tariffs provide. And every day such tariffs remain after his inauguration they will become more Biden's and more difficult to remove. Trump's tariffs may thus not come off soon. This is particularly true in the case of China, where Democrats and Republicans share the security as well as economic concerns highlighted by the Trump administration, even if they may not agree with its tactics.[28]

A Biden administration, however, is certain to accept that it needs to work with its European allies to address the challenges from China. Biden is also

21 The White House, President Bush Meets with EU Leaders, February 22, 2005.

22 Robert Lighthizer, 'How to Set World Trade Straight,' Wall Street Journal, August 20, 2020.

23 Brett Fortnam, 'USTR: If WTO Appellate Body Never Comes Back, 'That Would be Fine,' Inside U.S. Trade, June 18, 2020 (paywall).

24 Ana Swanson, 'WTO Says American Tariffs on China Broke Global Trade Rules,' New York Times, September 15, 2020.

25 Joseph R. Biden, Jr., 'Why America Must Lead Again: Rescuing U.S. Foreign Policy After Trump,' Foreign Affairs, March/April 2020.

26 The Editorial Board, 'How Tariffs Hurt Manufacturing: A New Fed Study Shows the Damage Swamped Any Benefits,' The Wall Street Journal, December 30, 2019.

27 Scott Lincicome, Testing the 'China Shock:' Was Normalizing Trade with China a Mistake, Cato Institute, July 8, 2020

28 Isabelle Icso, 'Blumenauer Blasts Trump Administration for 'Politicized' China Moves,' Inside US Trade, September 23, 2020 (paywall).

more likely to understand that the EU will not join the United States in an economic war with China, and that it will not raise tariffs on Chinese products in a manner inconsistent with WTO law. He and his administration would find it easier to acknowledge that the EU pushed back against Beijing during the June and September EU-China summits,[29] and that it has taken numerous other steps, including some that are tougher than those the United States contemplates. These European steps include anti-dumping duties on Chinese subsidiaries in Egypt because of subsidies their parent companies receive in China and considering steps to block Chinese acquisitions of European firms that are supported by subsidies in China. A Biden administration should therefore be able to work more easily with the EU on China. Indeed, this could become the crux of renewed collaboration, given the need for a bold, comprehensive WTO case against the problems China's economic distortions cause the global economy.[30] Here, Biden's advisors understand the importance of the EU (and Japan) in building the diplomatic coalition needed to press China to accept more disciplines on its use of industrial subsidies.

As this implies, Biden would be far more likely to want to work within the WTO context, given his strong belief in the importance of the international rule of law. That said, European countries should recall that it was the Obama administration that began the hold on the appointment of new members of the WTO Appellate Body, out of concern about the way in which the latter was seemingly creating new law, including in several cases concerning the United States' use of antidumping and countervailing duties (mainly against unfair Chinese practices). Other concerns predate the Obama administration. All these issues will remain regardless of who is president from next January, and a Biden administration would also press for reforms of the WTO.

Even under a Biden administration, U.S.-EU collaboration on China and WTO reform would be difficult if bilateral problems are left to fester. As convenient as it is to blame Trump for the woes in the transatlantic economic relationship, the EU has contributed to the damage, starting with the 15-year battle in the WTO over subsidies to Boeing and Airbus. It also levied duties on $4 billion of U.S. exports in response to the Trump duties on steel and aluminum, is pressing a digital services tax that would overwhelmingly disadvantage American firms (and directly shift U.S. tax revenues to European treasuries, which explains the bipartisan opposition to the idea[31]), seeks authority to impose punitive duties on illegal practices by others, promotes an industrial policy (including on artificial intelligence and "data spaces") to strengthen its "strategic autonomy" in view of the challenges from the United States and China, and is considering a "carbon border adjustment" (that is, a new tariff) to offset differences in climate measures, again directed against Washington and Beijing. All this is compounded by the European Court of Justice's July ruling that the Privacy Shield arrangement that allows the transfer of personal data from Europe to the United States is invalid, transfers that are essential to literally every commercial transaction between the two sides.[32]

All these challenges will need to be addressed should a new administration take office in January 2021. This will demand, first and foremost, political leadership. The European Commission has offered a Transatlantic Trade and Technology Council to the Trump administration as one possible approach; a Biden administration would likely consider something like this positively (as might a reelected Trump).

29 Statement by European Council President Charles Michel and Commission President Ursula von der Leyen, EU-China Summit: Defending EU Interests and Values in a Complex and Vital Partnership, European Council, June 22, 2020.

30 Jennifer Hillman, The Best Way to Address China's Unfair Policies and Practices is Through a Big, Bold, Multilateral Case at the WTO, Testimony before U.S. -China Economic and Security Review Commission, June 8, 2018.

31 Senators Charles Grassley and Ron Wyden, Statement on USTR Investigation of Digital Services Tax, June 2, 2020.

32 Peter Chase, The EU is Hoist on its Own Data Protection Petard, German Marshall Fund of the United States, August 17, 2020.

But while such process-oriented proposals provide band-aids, they do not solve problems. Whether in a high-level council or not, the United States and the EU will need to consider whether to end the tariffs they have levied on each other as a result of the steel and aluminum "national security" battle, to resolve the Boeing-Airbus issue based on an understanding that competition with China necessitates their serious commitment to end related subsidies, and to jointly think through tax-allocation rights for exporters of digitally enabled services as well as goods. They will also have to deal with the difficulties created by the Privacy Shield ruling, and to think through the tough practical aspects of a carbon border adjustment mechanism (which may lose much of its rationale given the China's recently announced climate-change commitments[33] and a potential United States return to the Paris climate agreement under a Biden administration).

The Role of Congress

The next administration's trade policy will be substantially shaped as well by the outcomes of the Congressional elections. President Trump has executed his disruptive trade policy almost exclusively through executive orders in part because many of the Republicans who controlled the Senate hold their party's more traditional belief in open trade. This makes his actions legally easy to overturn, although as noted above politics may work against this.

Should Trump or Biden win, either could face the status quo congressional makeup of a Democrat-controlled House and a Republican-controlled Senate, or both houses under Democratic control. This matters in particular as Trade Promotion Authority (TPA), the law that governs approval of trade agreements, expires in July 2021. The more combative the debate about trade, the less likely TPA renewal will be, at least before the current law expires. This would affect the United States' ability to conclude an agreement with the United Kingdom (something that in any case will be difficult for any administration to negotiate, especially absent a U.K.-EU agreement). A divided Congress could affect efforts of either new administration to pass laws affecting trade, while a Democratic Congress could facilitate a Biden administration adopting laws—for instance, on government procurement—that many in Europe would consider inimical to their interests.

Conclusion

The outcome of the November 2020 presidential election matters to Europe and the transatlantic relationship. But whoever is elected, Europe and the United States will not return to the halcyon years of the Obama administration, and the optimistic view that surrounded the 2013 launch of the Transatlantic Trade and Investment Partnership. While in either event longstanding issues like Airbus and agricultural trade will need to be addressed, both sides must understand that Trump has wrought a fundamental change in transatlantic economic relations—and not for the better. At the very least, trust must be restored and that will take serious efforts from both sides.

33 Chloé Farand and Megan Darby, '[Xi Jin-Ping: China will Aim for Carbon-Neutrality by 2060](),' Climate Home News, September 22, 2020.

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